

109TH CONGRESS  
2D SESSION

# H. R. 5051

To authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2007 through 2012, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 30, 2006

Mr. GILCHREST (for himself, Mr. BARTLETT of Maryland, Mr. FARR, Mr. EHLERS, Mr. SHAYS, Mr. LEACH, and Mr. CASTLE) introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2007 through 2012, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Magnuson-Stevens Fishery Conservation and Manage-  
6       ment Amendments Act of 2006”.

7       (b) TABLE OF CONTENTS.—The table of contents for  
8       this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Amendment of Magnuson-Stevens Fishery Conservation and Management Act.
- Sec. 3. Changes in findings and definitions.
- Sec. 4. Highly migratory species.
- Sec. 5. Authorization of appropriations.

## TITLE I—SUSTAINABLE FISHERIES MANAGEMENT

### Subtitle A—Amendments

- Sec. 101. Cumulative impacts.
- Sec. 102. Regional Fishery Management Councils.
- Sec. 103. Fishery management plan requirements.
- Sec. 104. Fishery management plan discretionary provisions.
- Sec. 105. Limited access privilege programs.
- Sec. 106. Action by Secretary on fishery management plans and amendments to plans.
- Sec. 107. Environmental review process.
- Sec. 108. Emergency regulations.
- Sec. 109. Joint enforcement agreements.
- Sec. 110. Transition to sustainable fisheries.
- Sec. 111. Regional coastal disaster assistance, transition, and recovery program.
- Sec. 112. Fishery finance program hurricane assistance.
- Sec. 113. Shrimp fisheries hurricane assistance program.
- Sec. 114. Bycatch reduction engineering program.
- Sec. 115. Ecosystem management.
- Sec. 116. Community-based restoration program for fishery and coastal habitats.
- Sec. 117. Prohibited acts.
- Sec. 118. Cooperative restoration projects.
- Sec. 119. Enforcement.
- Sec. 120. Fishery permitting and registration programs.
- Sec. 121. Bycatch.

### Subtitle B—Collaborative Strategic Planning

- Sec. 131. Short title.
- Sec. 132. Definitions.
- Sec. 133. Program to achieve sustainable fisheries through collaborative strategic planning processes.
- Sec. 134. National Task Force on Sustainable Fishery Capacity.
- Sec. 135. Sustainable Fishery Vision, Implementation, and Management Plans.
- Sec. 136. Priority implementation.
- Sec. 137. Total allowable level of foreign fishing.

## TITLE II—INFORMATION AND RESEARCH

- Sec. 201. Recreational fisheries information.
- Sec. 202. Collection of information.
- Sec. 203. Access to certain information.
- Sec. 204. Cooperative research and management program.
- Sec. 205. Restoration study.
- Sec. 206. Fisheries conservation and management fund.
- Sec. 207. Use of fishery finance program and capital construction fund for sustainable purposes.

- Sec. 208. Deep sea coral research and technology program.  
 Sec. 209. Impact of turtle excluder devices on shrimping.  
 Sec. 210. Hurricane effects on shrimp and oyster fisheries and habitats.

### TITLE III—OTHER FISHERIES STATUTES

- Sec. 301. Reauthorization of other fisheries Acts.

### TITLE IV—INTERNATIONAL

- Sec. 401. Finding with respect to illegal, unreported, and unregulated fishing.  
 Sec. 402. Action to end illegal, unreported, or unregulated fishing and reduce  
     bycatch of protected marine species.  
 Sec. 403. Rebuilding depleted fisheries.

## 1 **SEC. 2. AMENDMENT OF MAGNUSON-STEVENSON FISHERY** 2 **CONSERVATION AND MANAGEMENT ACT.**

3       Except as otherwise expressly provided, whenever in  
 4 this Act an amendment or repeal is expressed in terms  
 5 of an amendment to, or repeal of, a section or other provi-  
 6 sion, the reference shall be considered to be made to a  
 7 section or other provision of the Magnuson-Stevens Fish-  
 8 ery Conservation and Management Act (16 U.S.C. 1801  
 9 et seq.).

## 10 **SEC. 3. CHANGES IN FINDINGS AND DEFINITIONS.**

11       (a) ECOSYSTEMS.—Section 2(a) (16 U.S.C. 1801(a))  
 12 is amended—

13               (1) by amending paragraph (6) to read as fol-  
 14 lows:

15               “(6) A national program for the conservation  
 16 and management of the fishery resources of the  
 17 United States is necessary to prevent overfishing, to  
 18 rebuild depleted stocks, to protect the ecosystems as-  
 19 sociated with those fishery resources, to insure con-

1       servation, to facilitate long-term protection of essen-  
2       tial fish habitats, and to realize the full potential of  
3       the Nation’s fishery resources.”;

4               (2) in paragraph (8) by inserting “and associ-  
5       ated ecosystems” after “fishery resources”; and

6               (3) by adding at the end the following:

7               “(11) A number of the Fishery Management  
8       Councils have demonstrated significant progress in  
9       integrating ecosystem considerations in fisheries  
10      management using the existing authorities provided  
11      under this Act.”.

12      (b) OTHER DEFINITIONS.—Section 3 (16 U.S.C.  
13 1802) is amended—

14              (1) by inserting after paragraph (4) the fol-  
15      lowing:

16              “(4A) The term ‘confidential information’  
17      means—

18                      “(A) trade secrets; or

19                      “(B) commercial or financial information  
20      the disclosure of which is likely to result in sub-  
21      stantial harm to the competitive position of the  
22      person who submitted the information to the  
23      Secretary.”;

24              (2) by inserting after paragraph (8) the fol-  
25      lowing:

1           “(8A) The term ‘depleted’ means a fishery the  
2           abundance of which is at or below a level that jeop-  
3           ardizes the capacity of the fishery to produce max-  
4           imum sustainable yield on a continuing basis.”;

5           (3) by inserting after paragraph (13) the fol-  
6           lowing:

7           “(13A) The term ‘regional fishery association’  
8           means an association formed for the mutual benefit  
9           of members—

10           “(A) to meet social and economic needs in  
11           a region or subregion; and

12           “(B) comprised of persons engaging in the  
13           harvest or processing of fishery resources in  
14           that specific region or subregion or who other-  
15           wise own or operate businesses substantially de-  
16           pendent upon a fishery.”;

17           (4) by inserting after paragraph (20) the fol-  
18           lowing:

19           “(20A) The term ‘import’—

20           “(A) means to land on, bring into, or in-  
21           troduce into, or attempt to land on, bring into,  
22           or introduce into, any place subject to the juris-  
23           diction of the United States, whether or not  
24           such landing, bringing, or introduction con-

1           stitutes an importation within the meaning of  
2           the customs laws of the United States; but

3           “(B) does not include any activity de-  
4           scribed in subparagraph (A) with respect to fish  
5           caught in the exclusive economic zone or by a  
6           vessel of the United States.”;

7           (5) by inserting after paragraph (23) the fol-  
8       lowing:

9           “(23A) The term ‘limited access privilege’—

10           “(A) means a Federal permit, issued as  
11           part of a limited access system under section  
12           303A to harvest a quantity of fish that may be  
13           received or held for exclusive use by a person;  
14           and

15           “(B) includes an individual fishing quota;  
16           but

17           “(C) does not include community develop-  
18           ment quotas as described in section 305(i).”;

19           (6) by inserting after paragraph (27) the fol-  
20       lowing:

21           “(27A) The term ‘observer information’ means  
22           any information collected, observed, retrieved, or cre-  
23           ated by an observer or electronic monitoring system  
24           pursuant to authorization by the Secretary, or col-  
25           lected as part of a cooperative research initiative, in-

1 including fish harvest or processing observations, fish  
 2 sampling or weighing data, vessel logbook data, ves-  
 3 sel or processor-specific information (including any  
 4 safety, location, or operating condition observations),  
 5 and video, audio, photographic, or written docu-  
 6 ments.”; and

7 (7) in paragraph (29) by striking “terms ‘over-  
 8 fishing’ and ‘overfished’ Mean” and inserting “term  
 9 ‘overfishing’ means”.

10 (c) REDESIGNATION.—Paragraphs (1) through (45)  
 11 of section 3 (16 U.S.C. 1802), as amended by subsection  
 12 (a), are redesignated as paragraphs (1) thorough (50), re-  
 13 spectively.

14 (d) CONFORMING AMENDMENTS.—

15 (1) The following provisions of the Act are  
 16 amended by striking “an individual fishing quota”  
 17 and inserting “a limited access privilege”:

18 (A) Section 402(b)(1)(D) (16 U.S.C.  
 19 1881a(b)(1)(D)).

20 (B) Section 407(a)(1)(D) and (c)(1) (16  
 21 U.S.C. 1883(a)(1)(D); (c)(1)).

22 (2) The following provisions of the Act are  
 23 amended by striking “individual fishing quota” and  
 24 inserting “limited access privilege”:

1 (A) Section 304(c)(3) (16 U.S.C.  
2 1854(c)(3)).

3 (B) Section 304(d)(2)(A)(i) (16 U.S.C.  
4 1854(d)(2)(A)(i)).

5 (C) Section 407(c)(2)(B) (16 U.S.C.  
6 1883(c)(2)(B)).

7 (3) Section 305(h)(1) (16 U.S.C. 1855(h)(1)) is  
8 amended by striking “individual fishing quotas,”  
9 and inserting “limited access privileges,”.

10 **SEC. 4. HIGHLY MIGRATORY SPECIES.**

11 Section 102 (16 U.S.C. 1812) is amended—

12 (1) by inserting “(a) IN GENERAL.—” before  
13 “The”; and

14 (2) by adding at the end the following:

15 “(b) TRADITIONAL PARTICIPATION.—For fisheries  
16 being managed under an international fisheries agreement  
17 to which the United States is a party, Council or Secre-  
18 tarial action, if any, shall reflect traditional participation  
19 in the fishery, relative to other Nations, by fishermen of  
20 the United States on fishing vessels of the United States.

21 “(c) PROMOTION OF STOCK MANAGEMENT.—If a rel-  
22 evant international fisheries organization does not have a  
23 process for developing a formal plan to rebuild a depleted  
24 stock or a stock that is approaching a condition of being  
25 depleted, the provisions of this Act in this regard shall



1 be communicated to and promoted by the United States  
 2 in the international or regional fisheries organization.”.

3 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

4 Section 4 (16 U.S.C. 1803) is amended to read as  
 5 follows:

6 **“SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

7 “There are authorized to be appropriated to the Sec-  
 8 retary to carry out the provisions of this Act—

9 “(1) \$328,004,000 for fiscal year 2007; and

10 “(2) such sums as may be necessary for fiscal  
 11 years 2008 through 2012.”.

12 **TITLE I—SUSTAINABLE**  
 13 **FISHERIES MANAGEMENT**  
 14 **Subtitle A—Amendments**

15 **SEC. 101. CUMULATIVE IMPACTS.**

16 (a) NATIONAL STANDARDS.—Section 301(a) (16  
 17 U.S.C. 1851(a)) is amended—

18 (1) in paragraph (1), by inserting “commercial  
 19 and recreational” before “fishing industry”; and

20 (2) in paragraph (8), by inserting “by utilizing  
 21 economic and social data and assessment methods  
 22 based on the best economic and social information  
 23 available,” after “fishing communities”.

24 (b) CONTENTS OF PLANS.—Section 303(a)(9) (16  
 25 U.S.C. 1853(a)(9)) is amended by striking “describe the

1 likely effects, if any, of the conservation and management  
 2 measures on—” and inserting “analyze the likely effects,  
 3 if any, including the cumulative economic and social im-  
 4 pacts, of the conservation and management measures on,  
 5 and possible mitigation measures for—”.

6 **SEC. 102. REGIONAL FISHERY MANAGEMENT COUNCILS.**

7 (a) TRIBAL ALTERNATE ON PACIFIC COUNCIL.—Sec-  
 8 tion 302(b)(5) (16 U.S.C. 1852(b)(5)) is amended by add-  
 9 ing at the end thereof the following:

10 “(D) The tribal representative appointed under sub-  
 11 paragraph (A) may designate as an alternate, during the  
 12 period of the representative’s term, an individual knowl-  
 13 edgeable concerning tribal rights, tribal law, and the fish-  
 14 ery resources of the geographical area concerned.”.

15 (b) SCIENTIFIC AND STATISTICAL COMMITTEES.—  
 16 Section 302(g) (16 U.S.C. 1852(g)) is amended—

17 (1) by striking so much of subsection (g) as  
 18 precedes paragraph (2) and inserting the following:

19 “(g) COMMITTEES AND ADVISORY PANELS.—

20 “(1)(A) Each Council shall establish, maintain,  
 21 and appoint the members of a scientific and statis-  
 22 tical committee to assist it in the development, col-  
 23 lection, evaluation, and peer review of such statis-  
 24 tical, biological, economic, social, and other scientific  
 25 information as is relevant to such Council’s develop-

1       ment and amendment of any fishery management  
2       plan.

3           “(B) Each scientific and statistical committee  
4       shall provide its Council ongoing scientific advice for  
5       fishery management decisions, including rec-  
6       ommendations for acceptable biological catch or  
7       maximum sustainable yield, and optimum yield, and  
8       reports on stock status and health, bycatch, seabird  
9       bycatch, habitat status, socioeconomic impacts of  
10      management measures, and sustainability of fishing  
11      practices.

12           “(C) Members appointed by the Councils to the  
13      scientific and statistical committees—

14                   “(i) shall be Federal employees, State  
15                   employees, academicians, or independent  
16                   experts with strong scientific or technical  
17                   credentials and experience; and

18                   “(ii) shall be individuals who have  
19                   demonstrated scientific expertise in fish-  
20                   eries science or marine ecology, or dem-  
21                   onstrated expertise in economics or social  
22                   science as it relates to fisheries manage-  
23                   ment, and have no direct financial interest  
24                   or are not employed by any person with a  
25                   direct financial interest in any fishery.

1           “(D) The Secretary, jointly with the Councils,  
2           shall establish a peer review process for scientific in-  
3           formation used to advise the Councils about the con-  
4           servation and management of a fishery. The review  
5           process, which may include existing committees or  
6           panels, is deemed to satisfy the requirements of the  
7           guidelines issued pursuant to section 515 of the  
8           Treasury and General Government Appropriations  
9           Act for Fiscal year 2001 (Public Law 106–554—Ap-  
10          pendix C; 114 Stat. 2763A–153).

11          “(E) In addition to the provisions of subsection  
12          (f)(7), the Secretary shall pay a stipend to members  
13          of the scientific and statistical committees or advi-  
14          sory panels who are not employed by the Federal  
15          government or a State marine fisheries agency.

16          “(F) Each Council shall require that the mem-  
17          bership of its scientific and statistical committee or  
18          other appropriate scientific or peer review committee  
19          be represented at all Council meetings.”;

20                 (2) by striking “other” in paragraph (2); and

21                 (3) by resetting the left margin of paragraphs

22                 (2) through (5) 2 ems from the left.

23          (c) COUNCIL FUNCTIONS.—Section 302(h) (16  
24          U.S.C. 1852(h)) is amended—

1 (1) by striking “authority, and” in paragraph  
2 (5) and inserting “authority;”;

3 (2) by redesignating paragraph (6) as para-  
4 graph (7); and

5 (3) by inserting after paragraph (5) the fol-  
6 lowing:

7 “(6) recommend to the Secretary annual catch  
8 limits for each of its managed fisheries, that are at  
9 or below the optimum yield, as recommended by its  
10 scientific and statistical committee; and”.

11 (d) VOTING MEMBERS.—Section 302 (16 U.S.C.  
12 1852) is amended—

13 (1) in subsection (b)(2)(A)—

14 (A) in the first sentence by inserting be-  
15 fore the period the following: “, and must not  
16 have been found by the Secretary, after notice  
17 and an opportunity for a hearing in accordance  
18 with section 554 of title 5, United States Code,  
19 to have committed an act prohibited by sub-  
20 paragraph (D), (E), (F), (H), (I), or (L) of sec-  
21 tion 307(1) or section 307(2).”; and

22 (B) in the second sentence by striking  
23 “Fishery Conservation Amendments of 1990”  
24 and inserting “Magnuson-Stevens Fishery Con-

1           servation and Management Amendments Act of  
2           2006”;

3           (2) in subsection (b)(2)(B)—

4                 (A) in the first sentence by striking “of the  
5                 active” and inserting “among the active”;

6                 (B) by striking the period at the end of the  
7                 first sentence and inserting the following: “and  
8                 representatives of the marine conservation pub-  
9                 lic interest sector and academic sector who are  
10                knowledgeable regarding the conservation and  
11                management of the fishery resources of the geo-  
12                graphic area concerned.”; and

13                (C) by striking “Merchant Marine and  
14                Fisheries” and inserting “Resources”; and

15           (3) in subsection (b)(2)(C) by striking the third  
16           sentence and inserting the following: “Each list shall  
17           consist of a broad slate of candidates for each va-  
18           cancy, shall include at least two representatives from  
19           each of the commercial fishing industry sector, the  
20           recreational fishing sector, and the marine conserva-  
21           tion public interest sector and academic sector, and  
22           shall consist solely of individuals who are knowledge-  
23           able regarding the conservation and management of  
24           the fishery resources of the geographical area con-  
25           cerned. The third sentence of this subparagraph

1       shall not apply to the Gulf of Mexico Fishery Man-  
2       agement Council.”.

3       (e) TRAINING.—Section 302 (16 U.S.C. 1852) is  
4       amended by adding at the end the following:

5       “(k) COUNCIL TRAINING PROGRAM.—

6               “(1) TRAINING COURSE.—Within 6 months  
7       after the date of enactment of the Magnuson-Ste-  
8       vens Fishery Conservation and Management Amend-  
9       ments Act of 2006, the Secretary, in consultation  
10      with the Councils and the National Sea Grant Col-  
11      lege Program, shall develop a training course for  
12      newly appointed Council members. The course may  
13      cover a variety of topics relevant to matters before  
14      the Councils, including—

15               “(A) fishery science and basic stock assess-  
16      ment methods;

17               “(B) basic instruction in principles of ecol-  
18      ogy;

19               “(C) fishery management techniques, data  
20      needs, and Council procedures;

21               “(D) social science and fishery economics;

22               “(E) tribal treaty rights and native cus-  
23      toms, access, and other rights related to West-  
24      ern Pacific indigenous communities;

1           “(F) legal requirements of this Act, includ-  
2           ing conflict of interest and disclosure provisions  
3           of this section and related policies;

4           “(G) other relevant legal and regulatory  
5           requirements, including the National Environ-  
6           mental Policy Act of 1969 (42 U.S.C. 4321 et  
7           seq.);

8           “(H) public process for development of  
9           fishery management plans; and

10          “(I) other topics suggested by the Council.

11          “(2) MEMBER TRAINING.—

12               “(A) TRAINING COURSE.—The training  
13               course under paragraph (1) shall be available to  
14               both new and existing Council members, and  
15               may be made available to committee or advisory  
16               panel members and members of the public as  
17               resources allow.

18               “(B) UPDATED AND ADVANCED INFORMA-  
19               TION FOR EXISTING COUNCIL MEMBERS.—The  
20               Secretary may also provide training for existing  
21               Council members regarding updated informa-  
22               tion on scientific and regional issues.

23          “(1) COUNCIL COORDINATION COMMITTEE.—The  
24          Councils may establish a Council coordination committee  
25          consisting of the chairs, vice chairs, and executive direc-



1 tors of each of the 8 Councils described in subsection  
2 (a)(1), or other Council members or staff, in order to dis-  
3 cuss issues of relevance to all Councils, including issues  
4 related to the implementation of this Act.”.

5 (f) PROCEDURAL MATTERS.—Section 302(i) (16  
6 U.S.C. 1852(i)) is amended—

7 (1) in paragraph (1) by striking “to the Coun-  
8 cils or to the scientific and statistical committees or  
9 advisory panels established under subsection (g).”  
10 and inserting “to the Councils, the Council coordina-  
11 tion committee established under subsection (l), or  
12 to the scientific and statistical committees or other  
13 committees or advisory panels established under sub-  
14 section (g).”;

15 (2) in paragraph (2) by striking “of a Council,  
16 and of the scientific and statistical committee and  
17 advisory panels established under subsection (g):”  
18 and inserting “of a Council, of the Council coordina-  
19 tion committee established under subsection (l), and  
20 of the scientific and statistical committees or other  
21 committees or advisory panels established under sub-  
22 section (g).”; and

23 (3) in paragraph (3)(A) by inserting “the Coun-  
24 cil Coordination Committee established under sub-  
25 section (1),” after “Council,”; and

1           (4) in paragraph (3)(A) by inserting “other  
2       Council committee,” after “committee,”.

3       (g) CONFLICTS OF INTEREST.—Section 302(j) (16  
4       U.S.C. 1852(j)) is amended—

5           (1) by inserting “lobbying, advocacy,” after  
6       “processing,” in paragraph (2);

7           (2) by striking “jurisdiction.” in paragraph (2)  
8       and inserting “jurisdiction, or with respect to any  
9       other individual or organization with a financial in-  
10      terest in such activity.”;

11          (3) by striking subparagraph (B) of paragraph  
12      (5) and inserting the following:

13          “(B) be kept on file by the Council and made  
14      available on the Internet and for public inspection at  
15      the Council offices during reasonable times; and”;  
16      and

17          (4) by adding at the end the following:

18      “(9) On January 1, 2008, and annually thereafter,  
19      the Secretary shall submit a report to the Senate Com-  
20      mittee on Commerce, Science, and Transportation and the  
21      House of Representatives Committee on Resources on ac-  
22      tion taken by the Secretary and the Councils to implement  
23      the disclosure of financial interest and recusal require-  
24      ments of this subsection.”.

1 (h) GULF OF MEXICO FISHERIES MANAGEMENT  
2 COUNCIL.—Section 302(b)(2) (16 U.S.C. 1852(b)(2)) is  
3 amended—

4 (1) by redesignating subparagraph (D) as sub-  
5 paragraph (E); and

6 (2) by inserting after subparagraph (C) the fol-  
7 lowing:

8 “(D)(i) The Secretary shall appoint to the Gulf of  
9 Mexico Fisheries Management Council—

10 “(I) 5 representatives of the commercial fishing  
11 sector;

12 “(II) 5 representatives of the recreational fish-  
13 ing and charter fishing sectors; and

14 “(III) 1 other individual who is knowledgeable  
15 regarding the conservation and management of fish-  
16 eries resources in the jurisdiction of the Council.

17 “(ii) The Governor of a State submitting a list of  
18 names of individuals for appointment by the Secretary of  
19 Commerce to the Gulf of Mexico Fisheries Management  
20 Council under subparagraph (C) shall include—

21 “(I) at least 1 nominee each from the commer-  
22 cial, recreational, and charter fishing sectors; and

23 “(II) at least 1 other individual who is knowl-  
24 edgeable regarding the conservation and manage-

1       ment of fisheries resources in the jurisdiction of the  
2       Council.

3       “(iii) If the Secretary determines that the list of  
4 names submitted by the Governor does not meet the re-  
5 quirements of clause (ii), the Secretary shall—

6               “(I) publish a notice in the Federal Register  
7 asking the residents of that State to submit the  
8 names and pertinent biographical data of individuals  
9 who would meet the requirement not met for ap-  
10 pointment to the Council; and

11               “(II) add the name of any qualified individual  
12 submitted by the public who meets the unmet re-  
13 quirement to the list of names submitted by the  
14 Governor.

15       “(iv) For purposes of clause (ii), an individual who  
16 owns or operates a fish farm outside of the United States  
17 shall not be considered to be a representative of the com-  
18 mercial fishing sector.”.

19       (i) REPORT AND RECOMMENDATIONS ON GULF  
20 COUNCIL AMENDMENT.—

21               (1) IN GENERAL.—Before August 2011, the  
22 Secretary of Commerce, in consultation with the  
23 Gulf of Mexico Fisheries Management Council, shall  
24 analyze the impact of the amendment made by sub-  
25 section (h) and determine whether section

1       302(b)(2)(D) of the Magnuson-Stevens Fishery Con-  
2       servation and Management Act (16 U.S.C.  
3       1852(b)(2)(D)) has resulted in a fair and balanced  
4       apportionment of the active participants in the com-  
5       mercial and recreational fisheries under the jurisdic-  
6       tion of the Council.

7           (2) REPORT.—By no later than August 2011,  
8       the Secretary shall transmit a report to the Senate  
9       Committee on Commerce, Science, and Transpor-  
10      tation and the House of Representatives Committee  
11      on Resources setting forth the Secretary’s findings  
12      and determination, including any recommendations  
13      for legislative or other changes that may be nec-  
14      essary to achieve such a fair and balanced appor-  
15      tionment, including whether to renew the authority.

16 **SEC. 103. FISHERY MANAGEMENT PLAN REQUIREMENTS.**

17      (a) IN GENERAL.—Section 303(a) (16 U.S.C.  
18 1853(a)) is amended—

19           (1) striking “and charter fishing” in paragraph  
20      (5) and inserting “charter fishing, and fish proc-  
21      essing”;

22           (2) by inserting “economic information nec-  
23      essary to meet the requirements of this Act,” in  
24      paragraph (5) after “number of hauls,”;

1           (3) by striking “fishery” the first place it ap-  
2           pears in paragraph (13) and inserting “fishery, in-  
3           cluding their economic impact,”;

4           (4) by striking “and” after the semicolon in  
5           paragraph (13);

6           (5) by striking “allocate” in paragraph (14)  
7           and inserting “allocate, taking into consideration the  
8           economic impact of the harvest restrictions or recov-  
9           ery benefits on the fishery participants in each sec-  
10          tor,”;

11          (6) by striking “fishery.” in paragraph (14)  
12          and inserting “fishery; and”; and

13          (7) by adding at the end the following:

14          “(15)(A) specify, in the plan or implementing  
15          regulations, annual catch limits that are rec-  
16          ommended by the Council or established by the Sec-  
17          retary based on the best scientific information avail-  
18          able at a level that does not exceed optimum yield;  
19          and

20          “(B) require that the amount of any harvest ex-  
21          ceeding the specified annual catch limit shall be de-  
22          ducted from the following year’s annual catch  
23          limit.”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 subsection (a)(5) shall take effect 2 years after the date  
3 of enactment of this Act.

4 (c) ENDING OVERFISHING.—

5 (1) SUBSTITUTION OF TERM.—The Act is  
6 amended—

7 (A) by striking “overfished” each place it  
8 appears (other than in subsection (a) of section  
9 3 of the Act (16 U.S.C. 1802), as amended by  
10 this Act) and inserting “depleted”; and

11 (B) in the heading for section 304(e) (16  
12 U.S.C. 1854(e)) by striking “OVERFISHED”  
13 and inserting “DEPLETED”.

14 (2) REQUIRED PROVISIONS OF FISHERY MAN-  
15 AGEMENT PLANS.—Section 303(a)(10) (16 U.S.C.  
16 1853(a)(10)) is amended to read as follows:

17 “(10) specify objective and measurable criteria  
18 for identifying when the fishery to which the plan  
19 applies is depleted or being subjected to overfishing  
20 (with an analysis of how the criteria were deter-  
21 mined and the relationship of the criteria to the re-  
22 productive potential of stocks of fish in that fish-  
23 ery);”.

1           (3)     ACTION     BY     SECRETARY.—Section  
2     304(e)(4)(A)(i)   (16   U.S.C.   1854(e)(4)(A)(i))   is  
3     amended to read as follows:

4                     “(i) be as short as possible, not to ex-  
5                     ceed one year unless otherwise provided for  
6                     under an international agreement in which  
7                     the United States participates, taking into  
8                     account the status and biology of any de-  
9                     pleted stocks of fish, the needs of fishing  
10                    communities, recommendations by inter-  
11                    national organizations in which the United  
12                    States participates, and the interaction of  
13                    the depleted stock of fish within the ma-  
14                    rine ecosystem; and”.

15     (d) PROPOSED REGULATIONS.—Section 303(c) (16  
16   U.S.C. 1853(c)) is amended—

17           (1) by striking “and” at the end of paragraph  
18     (1);

19           (2) in paragraph (2), by striking the period and  
20     inserting “; and”; and

21           (3) by adding at the end the following:

22                     “(3) implementing conservation and manage-  
23                     ment measures under a fishery ecosystem plan under  
24                     subsection (e)(3) may be submitted at any time after  
25                     the Council adopts the fishery ecosystem plan.”.



1 **SEC. 104. FISHERY MANAGEMENT PLAN DISCRETIONARY**  
2 **PROVISIONS.**

3 Section 303(b) (16 U.S.C. 1853(b)) is amended—

4 (1) by inserting “(A)” after “(2)” in paragraph  
5 (2);

6 (2) by inserting “and” after the semicolon at  
7 the end of paragraph (2)(A) (as designated by sub-  
8 paragraph (A) of this paragraph);

9 (3) by inserting at the end of paragraph (2) the  
10 following:

11 “(B) designate such zones in areas where deep  
12 sea corals are identified under section 408, to pro-  
13 tect deep sea corals from physical damage from fish-  
14 ing gear or to prevent loss or damage to such fishing  
15 gear from interactions with deep sea corals, after  
16 considering long-term sustainable uses of fishery re-  
17 sources in such areas;”;

18 (4) by striking paragraph (6) and inserting the  
19 following:

20 “(6) establish a limited access system for the  
21 fishery in order to achieve optimum yield if, in devel-  
22 oping such system, the Council and the Secretary  
23 take into account—

24 “(A) the conservation requirements of this  
25 Act with respect to the fishery;

26 “(B) present participation in the fishery;

1           “(C) historical fishing practices in, and de-  
2           pendence on, the fishery;

3           “(D) the economics of the fishery;

4           “(E) the capability of fishing vessels used  
5           in the fishery to engage in other fisheries;

6           “(F) the cultural and social framework rel-  
7           evant to the fishery and any affected fishing  
8           communities;

9           “(G) the fair and equitable distribution of  
10          access privileges to a public resource; and

11          “(H) any other relevant considerations;”;

12          (5) by striking “(other than economic data)” in  
13          paragraph (7);

14          (6) by striking “and” after the semicolon in  
15          paragraph (11); and

16          (7) by redesignating paragraph (12) as para-  
17          graph (14) and inserting after paragraph (11) the  
18          following:

19               “(12) establish a process for complying with the  
20          National Environmental Policy Act (42 U.S.C. 4321  
21          et seq.) pursuant to section 304(h) of this Act;

22               “(13) include management measures in the  
23          plan to conserve target and non-target species and  
24          habitats, considering the variety of ecological factors  
25          affecting fishery populations; and”.

1 **SEC. 105. LIMITED ACCESS PRIVILEGE PROGRAMS.**

2 (a) IN GENERAL.—Title III (16 U.S.C. 1851 et seq.)  
3 is amended—

4 (1) by striking section 303(d); and

5 (2) by inserting after section 303 the following:

6 **“SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.**

7 “(a) IN GENERAL.—After the date of enactment of  
8 the Magnuson-Stevens Fishery Conservation and Manage-  
9 ment Amendments Act of 2006, a Council may submit,  
10 and the Secretary may approve, for a fishery that is man-  
11 aged under a limited access system, a limited access privi-  
12 lege program to harvest fish if the program meets the re-  
13 quirements of this section.

14 “(b) NO CREATION OF RIGHT, TITLE, OR INTER-  
15 EST.—A limited access system, limited access privilege,  
16 quota share, or other authorization established, imple-  
17 mented, or managed under this Act—

18 “(1) shall be considered a permit for the pur-  
19 poses of sections 307, 308, and 309;

20 “(2) may be revoked, limited, or modified at  
21 any time in accordance with this Act, including rev-  
22 ocation for failure to comply with the terms of the  
23 plan or if the system is found to have jeopardized  
24 the sustainability of the stock or the safety of fisher-  
25 men;

1           “(3) shall not confer any right of compensation  
2           to the holder of such limited access privilege, quota  
3           share, or other such limited access system authoriza-  
4           tion if it is revoked, limited, or modified;

5           “(4) shall not create, or be construed to create,  
6           any right, title, or interest in or to any fish before  
7           the fish is harvested by the holder; and

8           “(5) shall be considered a grant of permission  
9           to the holder of the limited access privilege or quota  
10          share to engage in activities permitted by such lim-  
11          ited access privilege or quota share.

12          “(c) REQUIREMENTS FOR LIMITED ACCESS PRIVI-  
13 LEGES.—

14          “(1) IN GENERAL.—In addition to complying  
15          with the other requirements of this Act, any limited  
16          access privilege program to harvest fish submitted  
17          by a Council or approved by the Secretary under  
18          this section shall—

19                 “(A) if established in a fishery that is de-  
20                 pleted or subject to a rebuilding plan, assist in  
21                 its rebuilding; and

22                 “(B) if established in a fishery that is de-  
23                 termined by the Secretary or the Council to  
24                 have over-capacity, contribute to reducing ca-  
25                 pacity;

1 “(C) promote—

2 “(i) the safety of human life at sea;

3 and

4 “(ii) the conservation and manage-  
5 ment of the fishery;

6 “(D) prohibit any person other than a  
7 United States citizen, a corporation, partner-  
8 ship, or other entity established under the laws  
9 of the United States or any State, or a perma-  
10 nent resident alien, that meets the eligibility  
11 and participation requirements established in  
12 the program from acquiring a privilege to har-  
13 vest fish;

14 “(E) require that all fish harvested under  
15 a limited access privilege program be processed  
16 by vessels of the United States, in United  
17 States waters, or on United States soil (includ-  
18 ing any territory of the United States).

19 “(F) specify the goals of the program;

20 “(G) include provisions for the regular  
21 monitoring and review by the Council and the  
22 Secretary of the operations of the program, in-  
23 cluding determining progress in meeting the  
24 goals of the program and this Act, and any nec-  
25 essary modification of the program to meet

1           those goals, with a formal and detailed review  
2           5 years after the establishment of the program  
3           and every 5 years thereafter;

4           “(H) include an effective system for en-  
5           forcement, monitoring, and management of the  
6           program, including the use of observers;

7           “(I) include an appeals process for admin-  
8           istrative review of determinations with respect  
9           to the Secretary’s decisions regarding adminis-  
10          tration of the limited access privilege program;

11          “(J) provide for the establishment by the  
12          Secretary, in consultation with the Department  
13          of Justice and the Federal Trade Commission,  
14          for an information collection and review process  
15          to provide any additional information needed by  
16          the Department of Justice and the Federal  
17          Trade Commission to determine whether any il-  
18          legal acts of anti-competition, anti-trust, price  
19          collusion, or price fixing have occurred among  
20          regional fishery associations or persons receiv-  
21          ing limited access privileges under the program;  
22          and

23          “(K) provide for the revocation by the Sec-  
24          retary of limited access privileges held by any

1 person found to have violated the antitrust laws  
2 of the United States.

3 “(2) WAIVER.—The Secretary may waive the  
4 requirement of paragraph (1)(E) if the Secretary de-  
5 termines that—

6 “(A) the fishery has historically processed  
7 the fish outside of the United States; and

8 “(B) the United States has a seafood safe-  
9 ty equivalency agreement with the country  
10 where processing will occur (or other assurance  
11 that seafood safety procedures to be used in  
12 such processing are equivalent or superior to  
13 the applicable United States seafood safety  
14 standards).

15 “(3) FISHING COMMUNITIES.—

16 “(A) IN GENERAL.—

17 “(i) ELIGIBILITY.—To be eligible to  
18 participate in a limited access privilege  
19 program to harvest fish, a fishing commu-  
20 nity shall—

21 “(I) be located within the man-  
22 agement area of the relevant Council;

23 “(II) meet criteria developed by  
24 the relevant Council, approved by the

1 Secretary, and published in the Fed-  
2 eral Register;

3 “(III) consist of residents who  
4 conduct commercial or recreational  
5 fishing, processing, or fishery-depend-  
6 ent support businesses within the  
7 Council’s management area; and

8 “(IV) develop and submit a com-  
9 munity sustainability plan to the  
10 Council and the Secretary that dem-  
11 onstrates how the plan will address  
12 the social and economic development  
13 needs of fishing communities, includ-  
14 ing those that have not historically  
15 had the resources to participate in the  
16 fishery, for approval based on criteria  
17 developed by the Council that have  
18 been approved by the Secretary and  
19 published in the Federal Register.

20 “(ii) FAILURE TO COMPLY WITH  
21 PLAN.—The Secretary shall deny limited  
22 access privileges granted under this section  
23 for any person who fails to comply with the  
24 requirements of the plan.



1           “(B) PARTICIPATION CRITERIA.—In devel-  
2           oping participation criteria for eligible commu-  
3           nities under this paragraph, a Council shall  
4           consider—

5                   “(i) traditional fishing or processing  
6                   practices in, and dependence on, the fish-  
7                   ery;

8                   “(ii) the cultural and social frame-  
9                   work relevant to the fishery;

10                  “(iii) economic barriers to access to  
11                  fishery;

12                  “(iv) the existence and severity of pro-  
13                  jected economic and social impacts associ-  
14                  ated with implementation of limited access  
15                  privilege programs on harvesters, captains,  
16                  crew, processors, and other businesses sub-  
17                  stantially dependent upon the fishery in  
18                  the region or subregion;

19                  “(v) the expected effectiveness, oper-  
20                  ational transparency, and equitability of  
21                  the community sustainability plan; and

22                  “(vi) the potential for improving eco-  
23                  nomic conditions in remote coastal commu-  
24                  nities lacking resources to participate in

1 harvesting or processing activities in the  
2 fishery.

3 “(4) REGIONAL FISHERY ASSOCIATIONS.—

4 “(A) IN GENERAL.—To be eligible to par-  
5 ticipate in a limited access privilege program to  
6 harvest fish, a regional fishery association  
7 shall—

8 “(i) be located within the management  
9 area of the relevant Council;

10 “(ii) meet criteria developed by the  
11 relevant Council, approved by the Sec-  
12 retary, and published in the Federal Reg-  
13 ister;

14 “(iii) be a voluntary association with  
15 established by-laws and operating proce-  
16 dures consisting of participants in the fish-  
17 ery, including commercial or recreational  
18 fishing, processing, fishery-dependent sup-  
19 port businesses, or fishing communities;  
20 and

21 “(iv) develop and submit a regional  
22 fishery association plan to the Council and  
23 the Secretary for approval based on cri-  
24 teria developed by the Council that have

1           been approved by the Secretary and pub-  
2           lished in the Federal Register.

3           “(B) FAILURE TO COMPLY WITH PLAN.—

4           The Secretary shall deny limited access privi-  
5           leges granted under this section for any person  
6           who fails to comply with the requirements of  
7           the plan.

8           “(C) PARTICIPATION CRITERIA.—In devel-  
9           oping participation criteria for eligible regional  
10          fishery associations under this paragraph, a  
11          Council shall consider—

12               “(i) traditional fishing or processing  
13               practices in, and dependence on, the fish-  
14               ery;

15               “(ii) the cultural and social frame-  
16               work relevant to the fishery;

17               “(iii) economic barriers to access to  
18               fishery;

19               “(iv) the existence and severity of pro-  
20               jected economic and social impacts associ-  
21               ated with implementation of limited access  
22               privilege programs on harvesters, captains,  
23               crew, processors, and other businesses sub-  
24               stantially dependent upon the fishery in  
25               the region or subregion, upon the adminis-

1                   trative and fiduciary soundness of the as-  
2                   sociation and its by-laws; and

3                   “(v) the expected effectiveness, oper-  
4                   ational transparency, and equitability of  
5                   the fishery association plan.

6                   “(5) ALLOCATION.—In developing a limited ac-  
7                   cess privilege program to harvest fish a Council or  
8                   the Secretary shall—

9                   “(A) establish procedures to ensure fair  
10                  and equitable initial allocations, including con-  
11                  sideration of—

12                  “(i) current and historical harvests;

13                  “(ii) employment in the harvesting  
14                  and processing sectors;

15                  “(iii) investments in, and dependence  
16                  upon, the fishery; and

17                  “(iv) the current and historical par-  
18                  ticipation of fishing communities;

19                  “(B) to the extent practicable, consider the  
20                  basic cultural and social framework of the fish-  
21                  ery, especially through the development of poli-  
22                  cies to promote the sustained participation of  
23                  small owner-operated fishing vessels and fishing  
24                  communities that depend on the fisheries, in-

cluding regional or port-specific landing or delivery requirements;

“(C) include measures to assist, when necessary and appropriate, entry-level and small vessel operators, captains, crew, and fishing communities through set-asides of harvesting allocations, including providing privileges and, where appropriate, recommending the provision of economic assistance in the purchase of limited access privileges to harvest fish;

“(D) ensure that limited access privilege holders do not acquire an excessive share of the total limited access privileges in the program by—

“(i) establishing a maximum share, expressed as a percentage of the total limited access privileges, that a limited access privilege holder is permitted to hold, acquired, or use; and

“(ii) establishing any other limitations or measures necessary to prevent an inequitable concentration of limited access privileges;

“(E) establish procedures to address geographic or other consolidation in both the har-

1 vesting and processing sectors of the fishery;  
2 and

3 “(F) authorize limited access privileges to  
4 harvest fish to be held, acquired, or used by or  
5 issued under the system to persons who sub-  
6 stantially participate in the fishery, as specified  
7 by the Council, including, as appropriate, fish-  
8 ing vessel owners, vessel captains, vessel crew  
9 members, fishing communities, and regional  
10 fishery associations.

11 “(6) PROGRAM INITIATION.—

12 “(A) LIMITATION.—Except as provided in  
13 subparagraph (D), a Council may initiate a  
14 fishery management plan or amendment to es-  
15 tablish a limited access privilege program to  
16 harvest fish on its own initiative or if the Sec-  
17 retary has certified an appropriate petition.

18 “(B) PETITION.—A group of fishermen  
19 constituting more than 50 percent of the permit  
20 holders, or holding more than 50 percent of the  
21 allocation, in the fishery for which a limited ac-  
22 cess privilege program to harvest fish is sought,  
23 may submit a petition to the Secretary request-  
24 ing that the relevant Council or Councils with  
25 authority over the fishery be authorized to ini-

1           tiate the development of the program. Any such  
2           petition shall clearly state the fishery to which  
3           the limited access privilege program would  
4           apply. For multispecies permits in the Gulf,  
5           only those participants who have substantially  
6           fished the species proposed to be included in the  
7           limited access program shall be eligible to sign  
8           a petition for such a program and shall serve  
9           as the basis for determining the percentage de-  
10          scribed in the first sentence of this subpara-  
11          graph.

12           “(C) CERTIFICATION BY SECRETARY.—

13          Upon the receipt of any such petition, the Sec-  
14          retary shall review all of the signatures on the  
15          petition and, if the Secretary determines that  
16          the signatures on the petition represent more  
17          than 50 percent of the permit holders, or hold-  
18          ers of more than 50 percent of the allocation in  
19          the fishery, as described by subparagraph (B),  
20          the Secretary shall certify the petition to the  
21          appropriate Council or Councils.

22           “(D) NEW ENGLAND AND GULF REF-  
23          ERENDUM.—

24           “(i) Except as provided in clause (iii)  
25          for the Gulf of Mexico commercial red

1 snapper fishery, the New England and  
2 Gulf Councils may not submit, and the  
3 Secretary may not approve or implement, a  
4 fishery management plan or amendment  
5 that creates an individual fishing quota  
6 program, including a Secretarial plan, un-  
7 less such a system, as ultimately developed,  
8 has been approved by more than  $\frac{2}{3}$  of  
9 those voting in a referendum among eligi-  
10 ble permit holders with respect to the New  
11 England Council, and by a majority of  
12 those voting in the referendum among eli-  
13 gible permit holders with respect to the  
14 Gulf Council. For multispecies permits in  
15 the Gulf, only those participants who have  
16 substantially fished the species proposed to  
17 be included in the individual fishing quota  
18 program shall be eligible to vote in such a  
19 referendum. If an individual fishing quota  
20 program fails to be approved by the req-  
21 uisite number of those voting, it may be  
22 revised and submitted for approval in a  
23 subsequent referendum.

24 “(ii) The Secretary shall conduct a  
25 referendum under this subparagraph, in-



cluding notifying all persons eligible to participate in the referendum and making available to them information concerning the schedule, procedures, and eligibility requirements for the referendum process and the proposed individual fishing quota program. Within 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Amendments Act of 2006, the Secretary shall publish guidelines and procedures to determine procedures and voting eligibility requirements for referenda and to conduct such referenda in a fair and equitable manner.

“(iii) The provisions of section 407(c) of this Act shall apply in lieu of this subparagraph for an individual fishing quota program for the Gulf of Mexico commercial red snapper fishery.

“(iv) Chapter 35 of title 44, United States Code, (commonly known as the Paperwork Reduction Act) does not apply to the referenda conducted under this subparagraph.

1           “(7) TRANSFERABILITY.—In establishing a lim-  
2       ited access privilege program, a Council shall—

3           “(A) establish a policy on the transfer-  
4       ability of limited access privilege shares  
5       (through sale or lease), including a policy on  
6       any conditions that apply to the transferability  
7       of limited access privilege shares that is con-  
8       sistent with the policies adopted by the Council  
9       for the fishery under paragraph (3); and

10          “(B) establish criteria for the approval and  
11       monitoring of transfers (including sales and  
12       leases) of limited access privilege shares.

13          “(8) PREPARATION AND IMPLEMENTATION OF  
14       SECRETARIAL PLANS.—This subsection also applies  
15       to a plan prepared and implemented by the Sec-  
16       retary under section 304(g).

17          “(9) ANTITRUST SAVINGS CLAUSE.—Nothing in  
18       this Act shall be construed to modify, impair, or su-  
19       persede the operation of any of the antitrust laws.  
20       For purposes of the preceding sentence, the term  
21       ‘antitrust laws’ has the meaning given such term in  
22       subsection (a) of the first section of the Clayton Act,  
23       except that such term includes section 5 of the Fed-  
24       eral Trade Commission Act to the extent that such  
25       section 5 applies to unfair methods of competition.

1       “(d) AUCTION AND OTHER PROGRAMS.—In estab-  
2       lishing a limited access privilege program, a Council may  
3       consider, and provide for, if appropriate, an auction sys-  
4       tem or other program to collect royalties for the initial,  
5       or any subsequent, distribution of allocations in a limited  
6       access privilege program if—

7               “(1) the system or program is administered in  
8       such a way that the resulting distribution of limited  
9       access privilege shares meets the program require-  
10      ments of subsection (c)(3)(A); and

11              “(2) revenues generated through such a royalty  
12      program are deposited in the Limited Access System  
13      Administration Fund established by section  
14      305(h)(5)(B) and available subject to annual appro-  
15      priations.

16      “(e) COST RECOVERY.—In establishing a limited ac-  
17      cess privilege program, a Council shall—

18              “(1) develop a methodology and the means to  
19      identify and assess the management, data collection  
20      and analysis, and enforcement programs that are di-  
21      rectly related to and in support of the program; and

22              “(2) provide, under section 304(d)(2), for a  
23      program of fees paid by limited access privilege hold-  
24      ers that will cover the costs of management, data  
25      collection and analysis, and enforcement activities.

1       “(f) LIMITED DURATION.—In establishing a limited  
2 access privilege program after the date of enactment of  
3 the Magnuson-Stevens Fishery Conservation and Manage-  
4 ment Amendments Act of 2006, a Council may establish—

5               “(1) a set term after which any initial or subse-  
6 quent allocation of a limited access privilege shall ex-  
7 pire;

8               “(2) different set terms within a fishery if the  
9 Council determines that variation of terms will fur-  
10 ther management goals; and

11              “(3) a mechanism under which participants in  
12 and entrants to the program may acquire or reac-  
13 quire allocations.

14       “(g) LIMITED ACCESS PRIVILEGE ASSISTED PUR-  
15 CHASE PROGRAM.—

16              “(1) IN GENERAL.—A Council may submit, and  
17 the Secretary may approve and implement, a pro-  
18 gram which reserves up to 25 percent of any fees  
19 collected from a fishery under section 304(d)(2) to  
20 be used, pursuant to section 1104A(a)(7) of the  
21 Merchant Marine Act, 1936 (46 U.S.C. App.  
22 1274(a)(7)), to issue obligations that aid in financ-  
23 ing—

1           “(A) the purchase of limited access privi-  
2           leges in that fishery by fishermen who fish from  
3           small vessels; and

4           “(B) the first-time purchase of limited ac-  
5           cess privileges in that fishery by entry level  
6           fishermen.

7           “(2) ELIGIBILITY CRITERIA.—A Council mak-  
8           ing a submission under paragraph (1) shall rec-  
9           ommend criteria, consistent with the provisions of  
10          this Act, that a fisherman must meet to qualify for  
11          guarantees under subparagraphs (A) and (B) of  
12          paragraph (1) and the portion of funds to be allo-  
13          cated for guarantees under each subparagraph.

14          “(h) EFFECT ON CERTAIN EXISTING SHARES AND  
15          PROGRAMS.—Nothing in this Act, or the amendments  
16          made by the Magnuson-Stevens Fishery Conservation and  
17          Management Amendments Act of 2006, shall be construed  
18          to require a reallocation of individual quota shares, proc-  
19          essor quota shares, cooperative programs, or other quota  
20          programs, including sector allocation, under development  
21          or submitted by a Council or approved by the Secretary  
22          or by Congressional action before the date of enactment  
23          of the Magnuson-Stevens Fishery Conservation and Man-  
24          agement Amendments Act of 2006.”.

1 (b) FEES.—Section 304(d)(2)(A) (16 U.S.C.  
2 1854(d)(2)(A)) is amended by striking “management and  
3 enforcement” and inserting “management, data collection,  
4 and enforcement”.

5 (c) INVESTMENT IN UNITED STATES SEAFOOD  
6 PROCESSING FACILITIES.—The Secretary of Commerce  
7 shall work with the Small Business Administration and  
8 other Federal agencies to develop financial and other  
9 mechanisms to encourage United States investment in sea-  
10 food processing facilities in the United States for fisheries  
11 that lack capacity needed to process fish harvested by  
12 United States vessels in compliance with the Magnuson—  
13 Stevens Fishery Conservation and Management Act (16  
14 U.S.C. 1801 et seq.).

15 (d) CONFORMING AMENDMENT.—Section  
16 304(d)(2)(C)(i) (16 U.S.C. 1854(d)(2)(C)(i)) is amended  
17 by striking “section 305(h)(5)(B)” and all that follows  
18 and inserting “section 305(h)(5)(B).”.

19 (e) APPLICATION WITH AMERICAN FISHERIES  
20 ACT.—Nothing in section 303A of the Magnuson-Stevens  
21 Fishery Conservation and Management Act (16 U.S.C.  
22 1801 et seq.), as added by subsection (a), shall be con-  
23 strued to modify or supersede any provision of the Amer-  
24 ican Fisheries Act (46 U.S.C. 12102 note; 16 U.S.C. 1851  
25 note; et seq.).

1 **SEC. 106. ACTION BY SECRETARY ON FISHERY MANAGE-**  
2 **MENT PLANS AND AMENDMENTS TO PLANS.**

3 (a) REVIEW OF PLANS AND INITIAL REGULA-  
4 TIONS.—Section 304(a) (16 U.S.C. 1854(a)) is amended  
5 to read as follows:

6 “(a) REVIEW OF PLANS.—

7 “(1) PRELIMINARY EVALUATION.—

8 “(A) Upon transmittal by the Council to  
9 the Secretary of a fishery management plan or  
10 plan amendment and any proposed imple-  
11 menting regulations prepared under section  
12 303(c)(1), the Secretary shall make a prelimi-  
13 nary evaluation of the management plan or  
14 amendment as to whether it is sufficient in  
15 scope and substance to warrant review under  
16 this subsection and consistent with the national  
17 standards, the other provisions of this Act, and  
18 other applicable laws.

19 “(B) If the preliminary evaluation is nega-  
20 tive, the Secretary shall disapprove the plan or  
21 amendment and notify the Council, in writing,  
22 of the reasons for the disapproval.

23 “(2) NOTICE OF PROPOSED PLANS, AMEND-  
24 MENTS, AND RULES.—By the 15th day following an  
25 affirmative preliminary evaluation under (1)(A), the  
26 Secretary shall publish in the Federal Register—

1           “(A) a notice stating that the plan or  
2           amendment is available and that written data,  
3           views, or comments of interested persons on the  
4           plan or amendment may be submitted to the  
5           Secretary during the 50-day period beginning  
6           on the date the notice is published; and

7           “(B) any proposed implementing regula-  
8           tions that the Secretary preliminarily deter-  
9           mines to be consistent with the fishery manage-  
10          ment plan or amendment, this Act, and any  
11          other applicable law, subject to the Secretary’s  
12          authority to include such changes to the Coun-  
13          cil’s proposed regulations as the Secretary be-  
14          lieves necessary, together with an explanation of  
15          those changes for a 50-day comment period.

16          “(3) SECRETARIAL DECISION ON PLAN OR  
17          AMENDMENT.—

18               “(A) The Secretary shall approve, dis-  
19               approve, or partially approve a plan or amend-  
20               ment within 30 days after the end of the com-  
21               mend period under paragraph (2) by written  
22               notice to the Council.

23               “(B) In making this determination, the  
24               Secretary shall—



1 “(i) take into account the information,  
2 views, and comments received from inter-  
3 ested persons;

4 “(ii) consult with the Secretary of  
5 State with respect to foreign fishing; and

6 “(iii) consult with the Secretary of the  
7 department in which the Coast Guard is  
8 operating with respect to enforcement at  
9 sea and to fishery access adjustments re-  
10 ferred to in section 303(a)(5).

11 “(C) A notice of disapproval or partial ap-  
12 proval shall specify—

13 “(i) the applicable law with which the  
14 plan or amendment is inconsistent;

15 “(ii) the nature of such inconsist-  
16 encies; and

17 “(iii) recommendations concerning the  
18 actions that could be taken by the Council  
19 to conform such plan or amendment to the  
20 requirements of applicable law.

21 “(4) DISAPPROVAL OR PARTIAL APPROVAL.—If  
22 the Secretary disapproves or partially approves a  
23 plan or amendment, the Council may submit a re-  
24 vised plan or amendment to the Secretary for review  
25 under this subsection.

1           “(5) ACCOMPANYING REGULATIONS.—If the  
2       Secretary published proposed implementing regula-  
3       tions pursuant to paragraph (2)(B), the Secretary  
4       shall either—

5           “(A) publish final regulations within 45  
6       days after the end of the comment period under  
7       paragraph (2)(B); or

8           “(B) notify the Council in writing of incon-  
9       sistencies with the plan, the amendment, this  
10      Act, or other applicable law and provide rec-  
11      ommendations on revisions to cure the incon-  
12      sistencies.

13      Upon receiving such a notification from the Sec-  
14      retary, the Council may revise the regulations and  
15      resubmit them to the Secretary for reevaluation  
16      under subsection (b).

17           “(6) RELATIONSHIP TO OTHER LAW.—Fishery  
18      management plans, fishery management plan  
19      amendments, and fishery ecosystem plans are not  
20      rules subject to section 553 of title 5, United States  
21      Code, and need not be codified in the Code of Fed-  
22      eral Regulations in accordance with chapter 15 of  
23      title 44, United States Code.”.

1       (b) REVIEW OF OTHER REGULATIONS.—Section  
2 304(b) (16 U.S.C. 1854(b)) is amended by striking para-  
3 graph (1) and inserting the following:

4           “(1) EVALUATION.—

5               “(A) Upon transmittal by the Council to  
6 the Secretary of regulations proposed under  
7 section 303(c)(2) or (3), the Secretary shall ini-  
8 tiate an evaluation of the proposed regulations  
9 to determine whether they are consistent with  
10 the fishery management plan, this Act, and  
11 other applicable law.

12              “(B) If the Secretary determines that the  
13 regulations are consistent, the Secretary shall,  
14 within 15 days after transmittal by the Council,  
15 publish such regulations in the Federal Reg-  
16 ister, with such changes as may be necessary  
17 and an explanation of those changes, for a pub-  
18 lic comment period of at least 15 days and not  
19 more than 60 days.

20              “(C) If the Secretary determines that the  
21 regulations are not consistent, the Secretary  
22 shall, within 15 days after transmittal by the  
23 Council, notify the Council in writing of the in-  
24 consistencies and provide recommendations on  
25 revisions that would make the proposed regula-

1           tions consistent with the fishery management  
2           plan, this Act, and other applicable law.”.

3           (c) ALTERNATIVE PROCEDURAL MECHANISMS.—Sec-  
4   tion 304 (16 U.S.C. 1854) is amended by adding at the  
5   end the following:

6           “(i) ALTERNATIVE PROCEDURAL MECHANISMS.—

7           “(1) IN GENERAL.—

8           “(A) In a fishery management plan or  
9           amendment, the Council or Secretary, as appro-  
10          priate, may develop alternative procedural  
11          mechanisms to be used in lieu of plan amend-  
12          ments for implementing conservation and man-  
13          agement measures.

14          “(B) Such mechanisms may allow for ab-  
15          breviated processes for the implementation of  
16          regulations or other actions as appropriate.

17          “(C) Alternative procedural mechanisms  
18          shall only be approved or adopted for use in sit-  
19          uations where—

20                  “(i) the conservation and management  
21                  measure is within the scope of conservation  
22                  and management measures established in  
23                  an existing plan;

24                  “(ii) otherwise applicable regulatory  
25                  processes are not sufficient to allow timely

1 and efficient implementation of the con-  
2 servation and management measure in re-  
3 sponse to new information; and

4 “(iii) notice of the conservation and  
5 management measure is provided appro-  
6 priate to the significance of the expected  
7 impacts on affected fishery resources and  
8 on the participants in the fishery.

9 “(D) Any final agency action taken pursu-  
10 ant to the alternative procedural mechanism  
11 must be promptly published in the Federal Reg-  
12 ister.

13 “(2) IMPLEMENTING REGULATIONS.—If the al-  
14 ternative procedural mechanism is approved by the  
15 Secretary pursuant to section 304(a), or adopted by  
16 the Secretary pursuant to section 304(c) or (g) and  
17 implemented through regulations, any regulation  
18 issued or other action taken pursuant to the alter-  
19 native procedural mechanism need not comply with  
20 the rulemaking provisions of section 304(b), (c), or  
21 (g), or subsections (b) through (d) of section 553 of  
22 title 5, United States Code.”.

23 (d) EMERGENCY REGULATIONS.—Section 305(c)(3)  
24 (16 U.S.C. 1855(c)(3)) is amended—

1           (1) in the matter preceding subparagraph (A)  
2           by inserting “Subsections (b) through (d) of section  
3           553 of title 5, United States Code, shall not apply  
4           to emergency regulations issued pursuant to this  
5           provision.” after “the period in which such regula-  
6           tion is in effect.”;

7           (2) in subparagraph (B) by striking “180 days”  
8           the second time it appears and inserting “186  
9           days”; and

10          (3) in subparagraph (D) by inserting “or in-  
11          terim measures” after “emergency regulations”.

12          (e) RESPONSIBILITY OF THE SECRETARY.—Section  
13          305(d) (16 U.S.C. 1855(d)) is amended by striking sub-  
14          section (d) and inserting the following:

15          “(d) RESPONSIBILITY OF THE SECRETARY.—

16                 “(1) IN GENERAL.—The Secretary shall have  
17                 general responsibility to carry out any fishery man-  
18                 agement plan or amendment approved or prepared  
19                 by the Secretary, in accordance with this Act.

20                 “(2) REGULATIONS.—In addition to the other  
21                 rulemaking provisions of this Act, the Secretary  
22                 shall promulgate such regulations, in accordance  
23                 with section 553 of title 5, United States Code, as  
24                 may be necessary to discharge such responsibilities  
25                 or to carry out any other provision of this Act.

1           “(3) GUIDANCE.—The Secretary may issue  
2           guidance to interpret and facilitate implementation  
3           of this Act.”.

4   **SEC. 107. ENVIRONMENTAL REVIEW PROCESS.**

5           Section 304 (16 U.S.C. 1854) is amended by adding  
6   at the end the following:

7           “(i) ENVIRONMENTAL REVIEW PROCESS.—

8           “(1) PROCEDURES.—The Secretary shall, in  
9           consultation with the Councils and the Council on  
10          Environmental Quality, revise and update agency  
11          procedures for compliance with the National Envi-  
12          ronmental Policy Act (42 U.S.C. 4231 et seq.). The  
13          procedures shall—

14                 “(A) conform to the time lines for review  
15                 and approval of fishery management plans and  
16                 plan amendments under this section; and

17                 “(B) integrate applicable environmental  
18                 analytical procedures, including the time frames  
19                 for public input, with the procedure for the  
20                 preparation and dissemination of fishery man-  
21                 agement plans, plan amendments, and other ac-  
22                 tions taken or approved pursuant to this Act in  
23                 order to provide for timely, clear and concise  
24                 analysis that is useful to decision makers and

1 the public, reduce extraneous paperwork, and  
2 effectively involve the public.

3 “(2) USAGE.—The updated agency procedures  
4 promulgated in accordance with this section used by  
5 the Councils or the Secretary shall be the sole envi-  
6 ronmental impact assessment procedure for fishery  
7 management plans, amendments, regulations, or  
8 other actions taken or approved pursuant to this  
9 Act.

10 “(3) SCHEDULE FOR PROMULGATION OF FINAL  
11 PROCEDURES.—The Secretary shall—

12 “(A) propose revised procedures within 12  
13 months after the date of enactment of the Mag-  
14 nuson-Stevens Fishery Conservation and Man-  
15 agement Amendments Act of 2006;

16 “(B) provide 90 days for public review and  
17 comments; and

18 “(C) promulgate final procedures no later  
19 than 18 months after the date of enactment of  
20 that Act.

21 “(4) PUBLIC PARTICIPATION.—The Secretary is  
22 authorized and directed, in cooperation with the  
23 Council on Environmental Quality and the Councils,  
24 to involve the affected public in the development of



1 revised procedures, including workshops or other ap-  
 2 propriate means of public involvement.”.

3 **SEC. 108. EMERGENCY REGULATIONS.**

4 (a) LENGTHENING OF SECOND EMERGENCY PE-  
 5 RIOD.—Section 305(c)(3)(B) (16 U.S.C. 1855(c)(3)(B))  
 6 is amended by striking “180 days,” and inserting “186  
 7 days,”.

8 (b) TECHNICAL AMENDMENT.—Section 305(c)(3)(D)  
 9 (16 U.S.C. 1855(c)(3)(D)) is amended by inserting “or  
 10 interim measures” after “emergency regulations”.

11 **SEC. 109. JOINT ENFORCEMENT AGREEMENTS.**

12 (a) IN GENERAL.—Section 311 (16 U.S.C. 1861) is  
 13 amended—

14 (1) by striking “and” after the semicolon in  
 15 subsection (b)(1)(A)(iv);

16 (2) by inserting “and” after the semicolon in  
 17 subsection (b)(1)(A)(v);

18 (3) by inserting after clause (v) of subsection  
 19 (b)(1)(A) the following:

20 “(vi) access, directly or indirectly, for  
 21 enforcement purposes any data or informa-  
 22 tion required to be provided under this  
 23 title or regulations under this title, includ-  
 24 ing data from Global Maritime Distress  
 25 and Safety Systems, vessel monitoring sys-

1                   tems, or any similar system, subject to the  
2                   confidentiality provisions of section 402;”;

3                   (4) by redesignating subsection (h) as sub-  
4                   section (j); and

5                   (5) by inserting after subsection (g) the fol-  
6                   lowing:

7                   “(h) JOINT ENFORCEMENT AGREEMENTS.—

8                   “(1) IN GENERAL.—The Governor of an eligible  
9                   State may apply to the Secretary for execution of a  
10                  joint enforcement agreement with the Secretary that  
11                  will authorize the deputization and funding of State  
12                  law enforcement officers with marine law enforce-  
13                  ment responsibilities to perform duties of the Sec-  
14                  retary relating to law enforcement provisions under  
15                  this title or any other marine resource law enforced  
16                  by the Secretary. Upon receiving an application  
17                  meeting the requirements of this subsection, the Sec-  
18                  retary may enter into a joint enforcement agreement  
19                  with the requesting State.

20                  “(2) ELIGIBLE STATE.—A State is eligible to  
21                  participate in the cooperative enforcement agree-  
22                  ments under this section if it is in, or bordering on,  
23                  the Atlantic Ocean (including the Caribbean Sea),  
24                  the Pacific Ocean, the Arctic Ocean, the Gulf of

1 Mexico, Long Island Sound, or 1 or more of the  
2 Great Lakes.

3 “(3) REQUIREMENTS.—Joint enforcement  
4 agreements executed under paragraph (1)—

5 “(A) shall be consistent with the purposes  
6 and intent of this section to the extent applica-  
7 ble to the regulated activities;

8 “(B) may include specifications for joint  
9 management responsibilities as provided by the  
10 first section of Public Law 91–412 (15 U.S.C.  
11 1525); and

12 “(C) shall provide for confidentiality of  
13 data and information submitted to the State  
14 under section 402.

15 “(4) ALLOCATION OF FUNDS.—The Secretary  
16 shall include in each joint enforcement agreement an  
17 allocation of funds to assist in management of the  
18 agreement. The allocation shall be fairly distributed  
19 among all eligible States participating in cooperative  
20 enforcement agreements under this subsection, based  
21 upon consideration of Federal marine enforcement  
22 needs, the specific marine conservation enforcement  
23 needs of each participating eligible State, and the  
24 capacity of the State to undertake the marine en-  
25 forcement mission and assist with enforcement

1 needs. The agreement may provide for amounts to  
2 be withheld by the Secretary for the cost of any  
3 technical or other assistance provided to the State  
4 by the Secretary under the agreement.

5 “(i) IMPROVED DATA SHARING.—

6 “(1) IN GENERAL.—Notwithstanding any other  
7 provision of this Act, as soon as practicable but no  
8 later than 21 months after the date of enactment of  
9 the Magnuson-Stevens Fishery Conservation and  
10 Management Amendments Act of 2006, the Sec-  
11 retary shall implement data-sharing measures to  
12 make any data required to be provided by this Act  
13 from Global Maritime Distress and Safety Systems,  
14 vessel monitoring systems, or similar systems—

15 “(A) directly accessible by State enforce-  
16 ment officers authorized under subsection (a) of  
17 this section; and

18 “(B) available to a State management  
19 agency involved in, or affected by, management  
20 of a fishery if the State has entered into an  
21 agreement with the Secretary under section  
22 402(b)(1)(B) of this Act.

23 “(2) AGREEMENT REQUIRED.—The Secretary  
24 shall promptly enter into an agreement with a State  
25 under section 402(b)(1)(B) of this Act if—

1           “(A) the Attorney General or highest rank-  
2           ing legal officer of the State provides a written  
3           opinion or certification that State law allows  
4           the State to maintain the confidentiality of in-  
5           formation required by Federal law to be kept  
6           confidential; or

7           “(B) the Secretary is provided other rea-  
8           sonable assurance that the State can and will  
9           protect the identity or business of any person to  
10          which such information relates.”.

11          (b) REPORT ON USING GMDSS FOR FISHERY PUR-  
12          POSES.—Within 15 months after the date of enactment  
13          of this Act, the National Marine Fisheries Service and the  
14          Coast Guard shall transmit a joint report to the Senate  
15          Committee on Commerce, Science, and Transportation  
16          and the House of Representatives Committee on Re-  
17          sources containing—

18               (1) a cost-to-benefit analysis of the feasibility,  
19               value, and cost of using the Global Maritime Dis-  
20               tress and Safety Systems, vessel monitoring systems,  
21               or similar systems for fishery management, con-  
22               servation, enforcement, and safety purposes with the  
23               Federal Government bearing the capital costs of any  
24               such system;

1           (2) an examination of the cumulative impact of  
2           existing requirements for commercial vessels;

3           (3) an examination of whether the Global Mari-  
4           time Distress and Safety Systems or similar require-  
5           ments would overlap existing requirements or render  
6           them redundant;

7           (4) an examination of how data integration  
8           from such systems could be addressed;

9           (5) an examination of how to maximize the  
10          data-sharing opportunities between relevant State  
11          and Federal agencies and provide specific informa-  
12          tion on how to develop these opportunities, including  
13          the provision of direct access to the Global Maritime  
14          Distress and Safety Systems or similar system data  
15          to State enforcement officers, while considering the  
16          need to maintain or provide an appropriate level of  
17          individual vessel confidentiality where practicable;  
18          and

19          (6) an assessment of how the Global Maritime  
20          Distress and Safety Systems or similar systems  
21          could be developed, purchased, and distributed to  
22          regulated vessels.

23 **SEC. 110. TRANSITION TO SUSTAINABLE FISHERIES.**

24          (a) IN GENERAL.—Section 312 (16 U.S.C. 1861a)  
25          is amended—

1           (1) in subsection (a)(1)(B) by striking “meas-  
2           ures;” and inserting “measures, including regulatory  
3           restrictions imposed to protect human health or the  
4           marine environment and judicially imposed harvest  
5           restrictions;”;

6           (2) in subsection (a)(4) by striking “1996,  
7           1997, 1998, and 1999.” and inserting “2007  
8           through 2012.”;

9           (3) in subsection (b)(1) by striking “or the Gov-  
10          ernor of a State for fisheries under State authority,  
11          may conduct a fishing” and inserting “the Governor  
12          of a State for fisheries under State authority, or a  
13          majority of permit holders in the fishery, may con-  
14          duct a voluntary fishing”;

15          (4) in subsection (b)(1)(B)(i) by inserting  
16          “practicable” after “entrants,”;

17          (5) in subsection (b)(1)(C) by striking “cost-ef-  
18          fective and” and inserting “cost-effective and, in the  
19          instance of a program involving an industry fee sys-  
20          tem, prospectively, and”;

21          (6) in subsection (b)(1) by striking “and” after  
22          the semicolon at the end of subparagraph (B), by  
23          striking the period at the end of subparagraph (C)  
24          and inserting “; and”, and by adding at the end the  
25          following:

1           “(D) if implemented under paragraph  
2           (2)(B), includes measures that will prevent an  
3           increase in fishing capacity or effort in other  
4           fisheries, including a moratorium on new en-  
5           trants, practicable restrictions on vessel up-  
6           grades, and other effort control measures.”;

7           (7) in subsection (b)(2) by striking subpara-  
8           graph (A) and inserting the following:

9           “(A) the owner of a fishing vessel, if the permit  
10          authorizing the participation of the vessel in the  
11          fishery is surrendered for permanent revocation and  
12          the vessel owner and permit holder relinquish any  
13          claim associated with the vessel or permit that could  
14          qualify such owner or holder for any present or fu-  
15          ture limited access system permit in the fishery for  
16          which the program is established and such vessel is  
17          (i) scrapped, or (ii) through the Secretary of the de-  
18          partment in which the Coast Guard is operating,  
19          subjected to title restrictions (including loss of the  
20          vessel’s fisheries endorsement) that permanently  
21          prohibit and effectively prevent its use in fishing in  
22          federal or state waters, or fishing on the high seas  
23          or in the waters of a foreign nation; or”;

24          (8) in subsection (b)(4) by striking “The Sec-  
25          retary shall consult, as appropriate, with Councils,”



1 and inserting “The harvester proponents of each  
2 program and the Secretary shall consult, as appropriate and practicable, with Councils,”;

4 (9) in subsection (d)(1)(A) by striking “Secretary, at the request of the appropriate Council,”  
5 and inserting “Secretary”;

7 (10) in subsection (d)(1)(A) by striking “Secretary, in consultation with the Council,” and inserting  
8 “Secretary”;

10 (11) in subsection (d)(1)(B) by striking “a two-thirds majority of the participants voting.” and inserting  
11 “at least a majority of the permit holders in the fishery, or 50 percent of the permitted allocation  
12 of the fishery, who participated in the fishery.”;

15 (12) in subsection (d)(2)(C) by striking “establish;” and inserting “establish, unless the Secretary  
16 determines that such fees should be collected from the seller;” and  
17

19 (13) by striking subsection (e) and inserting the  
20 following:

21 “(e) IMPLEMENTATION PLAN.—

22 “(1) FRAMEWORK REGULATIONS.—The Secretary shall propose and adopt framework regulations  
23 applicable to the implementation of all programs under this section.  
24  
25

1           “(2) PROGRAM REGULATIONS.—The Secretary  
2           shall implement each program under this section by  
3           promulgating regulations that, together with the  
4           framework regulations, establish each program and  
5           control its implementation.

6           “(3) HARVESTER PROPONENTS’ IMPLEMENTA-  
7           TION PLAN.—The Secretary may not propose imple-  
8           mentation regulations for a program to be paid for  
9           by an industry fee system until the harvester pro-  
10          ponents of the program provide to the Secretary a  
11          proposed implementation plan that, among other  
12          matters—

13               “(A) proposes the types and numbers of  
14               vessels or permits that are eligible to participate  
15               in the program and the manner in which the  
16               program shall proceed, taking into account—

17                       “(i) the requirements of this section;

18                       “(ii) the requirements of the frame-  
19               work regulations;

20                       “(iii) the characteristics of the fishery;

21                       “(iv) the requirements of the applica-  
22               ble fishery management plan and any  
23               amendment that such plan may require to  
24               support the proposed program;

1 “(v) the general needs and desires of  
2 harvesters in the fishery;

3 “(vi) the need to minimize program  
4 costs; and

5 “(vii) other matters, including the  
6 manner in which such proponents propose  
7 to fund the program to ensure its cost ef-  
8 fectiveness, as well as any relevant factors  
9 demonstrating the potential for, or nec-  
10 essary to obtain, the support and general  
11 cooperation of a substantial number of af-  
12 fected harvesters in the fishery (or portion  
13 of the fishery) for which the program is in-  
14 tended; and

15 “(B) proposes procedures for program par-  
16 ticipation (such as submission of owner bids  
17 under an auction system or fair market-value  
18 assessment), including any terms and condi-  
19 tions for participation, that the harvester pro-  
20 ponents deem to be reasonably necessary to  
21 meet the program’s proposed objectives.

22 “(4) PARTICIPATION CONTRACTS.—The Sec-  
23 retary shall contract with each person participating  
24 in a program, and each such contract shall, in addi-  
25 tion to including such other matters as the Secretary

1       deems necessary and appropriate to effectively im-  
2       plement each program (including penalties for con-  
3       tract non-performance) be consistent with the frame-  
4       work and implementing regulations and all other ap-  
5       plicable law.

6               “(5) REDUCTION AUCTIONS.—Each program  
7       not involving fair market assessment shall involve a  
8       reduction auction that scores the reduction price of  
9       each bid offer by the data relevant to each bidder  
10      under an appropriate fisheries productivity factor. If  
11      the Secretary accepts bids, the Secretary shall ac-  
12      cept responsive bids in the rank order of their bid  
13      scores, starting with the bid whose reduction price is  
14      the lowest percentage of the productivity factor, and  
15      successively accepting each additional responsive bid  
16      in rank order until either there are no more respon-  
17      sive bids or acceptance of the next bid would cause  
18      the total value of bids accepted to exceed the amount  
19      of funds available for the program.

20              “(6) BID INVITATIONS.—Each program shall  
21      proceed by the Secretary issuing invitations to bid  
22      setting out the terms and conditions for participa-  
23      tion consistent with the framework and imple-  
24      menting regulations. Each bid that the Secretary re-

1 ceives in response to the invitation to bid shall con-  
2 stitute an irrevocable offer from the bidder.”.

3 (b) TECHNICAL AMENDMENT.—Sections 116, 203,  
4 204, 205, and 206 of the Sustainable Fisheries Act are  
5 deemed to have added sections 312, 402, 403, 404, and  
6 405, respectively to the Act as of the date of enactment  
7 of the Sustainable Fisheries Act.

8 (c) REPORT ON OVER CAPITALIZATION.—

9 (1) IN GENERAL.—The Secretary shall, within  
10 12 months after the date of the enactment of this  
11 Act, submit to the Congress a report—

12 (A) identifying and describing the 20 fish-  
13 eries in United States waters with the most se-  
14 vere examples of excess harvesting capacity in  
15 the fisheries, based on value of each fishery and  
16 the amount of excess harvesting capacity as de-  
17 termined by the Secretary;

18 (B) recommending measures for reducing  
19 such excess harvesting capacity, including the  
20 retirement of any latent fishing permits that  
21 could contribute to further excess harvesting ca-  
22 pacity in those fisheries;

23 (C) a description of where retired fishing  
24 boats are transferred after retirement;

1 (D) recommendation of a possible format  
 2 of a fishing vessel buyout program; and

3 (E) potential sources of funding for such  
 4 measures.

5 (2) BASIS FOR RECOMMENDATIONS.—The Sec-  
 6 retary shall base the recommendations made with re-  
 7 spect to a fishery on—

8 (A) the most cost effective means of  
 9 achieving voluntary reduction in capacity for  
 10 the fishery using the potential for industry fi-  
 11 nancing; and

12 (B) including measures to prevent the ca-  
 13 pacity that is being removed from the fishery  
 14 from moving to other fisheries in the United  
 15 States, in the waters of a foreign nation, or in  
 16 the high seas.

17 **SEC. 111. REGIONAL COASTAL DISASTER ASSISTANCE,**  
 18 **TRANSITION, AND RECOVERY PROGRAM.**

19 Title III (16 U.S.C. 1851 et seq.) is amended by add-  
 20 ing at the end the following:

21 **“SEC. 315. REGIONAL COASTAL DISASTER ASSISTANCE,**  
 22 **TRANSITION, AND RECOVERY PROGRAM.**

23 “(a) IN GENERAL.—When there is a catastrophic re-  
 24 gional fishery disaster the Secretary may, upon the re-  
 25 quest of, and in consultation with, the Governors of af-

1 fected States, establish a regional economic transition pro-  
2 gram to provide immediate disaster relief assistance to the  
3 fishermen, charter fishing operators, United States fish  
4 processors, and owners of related fishery infrastructure af-  
5 fected by the disaster.

6 “(b) PROGRAM COMPONENTS.—

7 “(1) IN GENERAL.—Subject to the availability  
8 of appropriations, the program shall provide funds  
9 or other economic assistance to affected entities, or  
10 to governmental entities for disbursement to affected  
11 entities, for—

12 “(A) meeting immediate regional shoreside  
13 fishery infrastructure needs, including proc-  
14 essing facilities, cold storage facilities, ice  
15 houses, docks, including temporary docks and  
16 storage facilities, and other related shoreside  
17 fishery support facilities and infrastructure;

18 “(B) financial assistance and job training  
19 assistance for fishermen who wish to remain in  
20 a fishery in the region that may be temporarily  
21 closed as a result of environmental or other ef-  
22 fects associated with the disaster;

23 “(C) funding, pursuant to the require-  
24 ments of section 312(b), to fishermen who are  
25 willing to scrap a fishing vessel and perma-

1           nently surrender permits for fisheries named on  
2           that vessel; and

3           “(D) any other activities authorized under  
4           section 312(a) of this Act or section 308(d) of  
5           the Interjurisdictional Fisheries Act of 1986  
6           (16 U.S.C. 4107(d)).

7           “(2) JOB TRAINING.—Any fisherman who de-  
8           cides to scrap a fishing vessel under the program  
9           shall be eligible for job training assistance.

10          “(3) STATE PARTICIPATION OBLIGATION.—The  
11          participation by a State in the program shall be con-  
12          ditioned upon a commitment by the appropriate  
13          State entity to ensure that the relevant State fishery  
14          meets the requirements of section 312(b) of this Act  
15          to ensure excess capacity does not re-enter the fish-  
16          ery.

17          “(4) NO MATCHING REQUIRED.—The Secretary  
18          may waive the matching requirements of section 312  
19          of this Act, section 308 of the Interjurisdictional  
20          Fisheries Act of 1986 (16 U.S.C. 4107), and any  
21          other provision of law under which the Federal share  
22          of the cost of any activity is limited to less than 100  
23          percent if the Secretary determines that—



1           “(A) no reasonable means are available  
2           through which applicants can meet the match-  
3           ing requirement; and

4           “(B) the probable benefit of 100 percent  
5           Federal financing outweighs the public interest  
6           in imposition of the matching requirement.

7           “(5) NET REVENUE LIMIT INAPPLICABLE.—  
8           Section 308(d)(3) of the Interjurisdictional Fisheries  
9           Act (16 U.S.C. 4107(d)(3)) shall not apply to assist-  
10          ance under this section.

11          “(c) REGIONAL IMPACT EVALUATION.—Within 2  
12          months after a catastrophic regional fishery disaster the  
13          Secretary shall provide the Governor of each State partici-  
14          pating in the program a comprehensive economic and  
15          socio-economic evaluation of the affected region’s fisheries  
16          to assist the Governor in assessing the current and future  
17          economic viability of affected fisheries, including the eco-  
18          nomic impact of foreign fish imports and the direct, indi-  
19          rect, or environmental impact of the disaster on the fish-  
20          ery and coastal communities.

21          “(d) CATASTROPHIC REGIONAL FISHERY DISASTER  
22          DEFINED.—In this section the term ‘catastrophic regional  
23          fishery disaster’ means a natural disaster, including a hur-  
24          ricane or tsunami, or a judicial or regulatory closure to  
25          protect human health or the marine environment, that—

1 “(1) results in economic losses to coastal or  
2 fishing communities;

3 “(2) affects more than 1 State or a major fish-  
4 ery managed by a Council or interstate fishery com-  
5 mission; and

6 “(3) is determined by the Secretary to be a  
7 commercial fishery failure under section 312(a) of  
8 this Act or a fishery resource disaster or section  
9 308(d) of the Interjurisdictional Fisheries Act of  
10 1986 (16 U.S.C. 4107(d)).”.

11 **SEC. 112. FISHERY FINANCE PROGRAM HURRICANE ASSIST-**  
12 **ANCE.**

13 (a) LOAN ASSISTANCE.—Subject to availability of ap-  
14 propriations, the Secretary of Commerce shall provide as-  
15 sistance to eligible holders of fishery finance program  
16 loans and allocate such assistance among eligible holders  
17 based upon their outstanding principal balances as of De-  
18 cember 2, 2005, for any of the following purposes:

19 (1) To defer principal payments on the debt for  
20 1 year and re-amortize the debt over the remaining  
21 term of the loan.

22 (2) To allow for an extension of the term of the  
23 loan for up to 1 year beyond the remaining term of  
24 the loan, or September 30, 2013, whichever is later.

1           (3) To pay the interest costs for such loans over  
2       fiscal years 2007 through 2012, not to exceed  
3       amounts authorized under subsection (d).

4           (4) To provide opportunities for loan forgive-  
5       ness, as specified in subsection (c).

6       (b) LOAN FORGIVENESS.—

7           (1) IN GENERAL.—Upon application made by  
8       an eligible holder of a fishery finance program loan,  
9       made at such time, in such manner, and containing  
10      such information as the Secretary may require, the  
11      Secretary, on a calendar year basis beginning in  
12      2005, may—

13           (A) offset against the outstanding balance  
14      on the loan an amount equal to the sum of the  
15      amounts expended by the holder during the cal-  
16      endar year to repair or replace covered vessels  
17      or facilities, or to invest in new fisheries infra-  
18      structure within or for use within the declared  
19      fisheries disaster area; or

20           (B) cancel the amount of debt equal to  
21      100 hundred percent of actual expenditures on  
22      eligible repairs, reinvestment, expansion, or new  
23      investment in fisheries infrastructure in the dis-  
24      aster region, or repairs to, or replacement of,  
25      eligible fishing vessels.

1 (c) DEFINITIONS.—In this section:

2 (1) DECLARED FISHERIES DISASTER AREA.—

3 The term “declared fisheries disaster area” means  
4 fisheries located in the major disaster area des-  
5 ignated by the President under the Robert T. Staf-  
6 ford Disaster Relief and Emergency Assistance Act  
7 (42 U.S.C. 5121 et seq.) as a result of Hurricane  
8 Katrina or Hurricane Rita.

9 (2) ELIGIBLE HOLDER.—The term “eligible  
10 holder” means the holder of a fishery finance pro-  
11 gram loan if—

12 (A) that loan is used to guarantee or fi-  
13 nance any fishing vessel or fish processing facil-  
14 ity home-ported or located within the declared  
15 fisheries disaster area; and

16 (B) the holder makes expenditures to re-  
17 pair or replace such covered vessels or facilities,  
18 or invests in new fisheries infrastructure within  
19 or for use within the declared fisheries disaster  
20 area, to restore such facilities following the dis-  
21 aster.

22 (3) FISHERY FINANCE PROGRAM LOAN.—The  
23 term “fishery finance program loan” means a loan  
24 made or guaranteed under the fishery finance pro-

1       gram under title XI of the Merchant Marine Act,  
2       1936, (46 U.S.C. App. 1271 et seq.).

3       (d) AUTHORIZATION OF APPROPRIATIONS.—There  
4       are authorized to be appropriated to the Secretary of Com-  
5       merce for the purposes of this section not more than  
6       \$15,000,000 for each eligible holder for the period begin-  
7       ning with fiscal year 2007 through fiscal year 2012.

8       **SEC. 113. SHRIMP FISHERIES HURRICANE ASSISTANCE**  
9                   **PROGRAM.**

10       (a) IN GENERAL.—The Secretary of Commerce shall  
11       establish an assistance program for the Gulf of Mexico  
12       shrimp fishing industry.

13       (b) ALLOCATION OF FUNDS.—Under the program,  
14       the Secretary shall allocate funds appropriated to carry  
15       out the program among the States of Alabama, Louisiana,  
16       Florida, Mississippi, and Texas in proportion to the per-  
17       centage of the shrimp catch landed by each State, except  
18       that the amount allocated to Florida shall be based exclu-  
19       sively on the proportion of such catch landed by the Flor-  
20       ida Gulf Coast fishery.

21       (c) USE OF FUNDS.—Of the amounts made available  
22       to each State under the program—

23               (1) 2 percent shall be retained by the State to  
24       be used for the distribution of additional payments  
25       to fishermen with a demonstrated record of compli-

1       ance with turtle excluder and bycatch reduction de-  
2       vice regulations; and

3               (2) the remainder of the amounts shall be used  
4       for—

5               (A) personal assistance, with priority given  
6       to food, energy needs, housing assistance,  
7       transportation fuel, and other urgent needs;

8               (B) assistance for small businesses, includ-  
9       ing fishermen, fish processors, and related busi-  
10       nesses serving the fishing industry;

11              (C) domestic product marketing and sea-  
12       food promotion;

13              (D) State seafood testing programs;

14              (E) the development of limited entry pro-  
15       grams for the fishery;

16              (F) funding or other incentives to ensure  
17       widespread and proper use of turtle excluder  
18       devices and bycatch reduction devices in the  
19       fishery; and

20              (G) voluntary capacity reduction programs  
21       for shrimp fisheries under limited access pro-  
22       grams.

23       (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
24       authorized to be appropriated to the Secretary of Com-

1 merce \$17,500,000 for fiscal years 2007 through 2012 to  
2 carry out this section.

3 **SEC. 114. BYCATCH REDUCTION ENGINEERING PROGRAM.**

4 Title III (16 U.S.C. 1851 et seq.), as amended by  
5 section 114 of this Act, is further amended by adding at  
6 the end the following:

7 **“SEC. 316. BYCATCH REDUCTION ENGINEERING PROGRAM.**

8 “(a) BYCATCH REDUCTION ENGINEERING PRO-  
9 GRAM.—Not later than 1 year after the date of enactment  
10 of the Magnuson-Stevens Fishery Conservation and Man-  
11 agement Amendments Act of 2006, the Secretary, in co-  
12 operation with the Councils and other affected interests,  
13 and based upon the best scientific information available,  
14 shall establish a bycatch reduction program to develop  
15 technological devices and other conservation engineering  
16 changes designed to minimize bycatch, seabird bycatch,  
17 bycatch mortality, and post-release mortality in federally  
18 managed fisheries. The program shall—

19 “(1) be regionally based;

20 “(2) be coordinated with projects conducted  
21 under the cooperative research and management  
22 program established under this Act;

23 “(3) provide information and outreach to fish-  
24 ery participants that will encourage adoption and

1 use of technologies developed under the program;  
2 and

3 “(4) provide for routine consultation with the  
4 Councils in order to maximize opportunities to incor-  
5 porate results of the program in Council actions and  
6 provide incentives for adoption of methods developed  
7 under the program in fishery management plans de-  
8 veloped by the Councils.

9 “(b) INCENTIVES.—Any fishery management plan  
10 prepared by a Council or by the Secretary may establish  
11 a system of incentives to reduce total bycatch and seabird  
12 bycatch amounts, bycatch rates, and post-release mortality  
13 in fisheries under the Council’s or Secretary’s jurisdiction,  
14 including—

15 “(1) measures to incorporate bycatch into  
16 quotas, including the establishment of collective or  
17 individual bycatch quotas;

18 “(2) measures to promote the use of gear with  
19 verifiable and monitored low bycatch and seabird by-  
20 catch rates; and

21 “(3) measures that, based on the best scientific  
22 information available, will reduce bycatch and  
23 seabird bycatch, bycatch mortality, post-release mor-  
24 tality, or regulatory discards in the fishery.”.



1 **SEC. 115. ECOSYSTEM MANAGEMENT.**

2 Title III (16 U.S.C. 1851 et seq.), as amended by  
3 section 204, is further amended by adding at the end the  
4 following:

5 **“SEC. 318. ECOSYSTEM MANAGEMENT.**

6 “(a) GUIDELINES.—

7 “(1) IN GENERAL.—The Secretary shall, in con-  
8 sultation with the Councils and within 24 months  
9 after the date of the enactment of the Magnuson-  
10 Stevens Fishery Conservation and Management  
11 Amendments Act of 2006, publish draft guidelines  
12 (which shall not have the force and effect of law) for  
13 the Councils concerning ecosystem considerations in  
14 fishery conservation and management.

15 “(2) CONTENTS.—The guidelines shall include  
16 definitions of the term ‘ecosystem’ for purposes of  
17 this Act.

18 “(b) FISHERY ECOSYSTEM PLANS.—Each Council,  
19 or the Secretary as appropriate, may prepare a fishery  
20 ecosystem plan in order to assist in implementing an eco-  
21 system approach to managing fisheries within its area of  
22 authority. In preparing a fishery ecosystem plan, a Coun-  
23 cil shall coordinate with Federal and State agencies re-  
24 sponsible for scientific understanding and management of  
25 other marine resources and sector activities.

1       “(c) CONTENTS OF FISHERY ECOSYSTEM PLANS.—

2       Fishery ecosystem plans shall be consistent with the advi-  
3       sory guidelines established in subsection (a) and shall con-  
4       tain conservation and management measures applicable to  
5       fishery resources throughout the fishery ecosystem, includ-  
6       ing measures that the Council or the Secretary may con-  
7       sider appropriate to—

8               “(1) avoid or minimize adverse effects of fishing  
9       on fish habitat, as well as other components of the  
10      ecosystem;

11              “(2) establish marine managed areas in the ex-  
12      clusive economic zone or the high seas;

13              “(3) manage fishing capacity; and

14              “(4) coordinate fishery science and manage-  
15      ment actions with Federal and State agencies re-  
16      sponsible for scientific understanding and manage-  
17      ment of other marine resources and sector activities,  
18      such as pollution prevention and habitat modifica-  
19      tion.

20       “(d) JOINT PLANS.—If a fishery ecosystem encom-  
21      passes waters under the authority of more than one Coun-  
22      cil, or a Council or Councils and the Secretary, for fish-  
23      eries under section 302(a)(3), the Councils, or the Council  
24      or Councils and the Secretary, as appropriate, may col-  
25      laborate to jointly prepare a fishery ecosystem plan for

1 that ecosystem. In preparing a joint fishery ecosystem  
2 plan, a Council or Councils, or the Council or Councils  
3 and the Secretary, as appropriate, shall coordinate with  
4 Federal and State agencies managing other marine re-  
5 sources and sector activities.”.

6 **SEC. 116. COMMUNITY-BASED RESTORATION PROGRAM**  
7 **FOR FISHERY AND COASTAL HABITATS.**

8 (a) IN GENERAL.—The Secretary of Commerce shall  
9 establish a community-based fishery and coastal habitat  
10 restoration program to implement and support the res-  
11 toration of fishery and coastal habitats.

12 (b) AUTHORIZED ACTIVITIES.—In carrying out the  
13 program, the Secretary may—

14 (1) provide funding and technical expertise to  
15 fishery and coastal communities to assist them in re-  
16 storing fishery and coastal habitat;

17 (2) advance the science and monitoring of  
18 coastal habitat restoration;

19 (3) transfer restoration technologies to the pri-  
20 vate sector, the public, and other governmental  
21 agencies;

22 (4) develop public-private partnerships to ac-  
23 complish sound coastal restoration projects;

1           (5) promote significant community support and  
2       volunteer participation in fishery and coastal habitat  
3       restoration;

4           (6) promote stewardship of fishery and coastal  
5       habitats; and

6           (7) leverage resources through national, re-  
7       gional, and local public-private partnerships.

8       (c) AUTHORIZATION OF APPROPRIATIONS.—To carry  
9       out this section there are authorized to be appropriated  
10      to the Secretary—

11           (1) for the first full fiscal year beginning after  
12      the date of the enactment of this Act, \$12,000,000;  
13      and

14           (2) for each fiscal year thereafter through fiscal  
15      year 2012, the sum of the amount authorized under  
16      this subsection for the preceding fiscal year, plus  
17      \$2,000,000.

18   **SEC. 117. PROHIBITED ACTS.**

19      Section 307(1) (16 U.S.C. 1857(1)) is amended—

20           (1) by striking “or” after the semicolon in sub-  
21      paragraph (O);

22           (2) by striking “carcass.” in subparagraph (P)  
23      and inserting “carcass;”; and

24           (3) by inserting after subparagraph (P) and be-  
25      fore the last sentence the following:

“(Q) to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish taken, possessed, transported, or sold in violation of any foreign law or regulation; or

“(R) to use any fishing vessel to engage in fishing in Federal or State waters, or on the high seas or the waters of another country, after the Secretary has made a payment to the owner of that fishing vessel under section 312(b)(2).”.

**SEC. 118. COOPERATIVE RESTORATION PROJECTS.**

Section 305(b) (16 U.S.C. 1855(b)) is amended by adding at the end the following:

“(5)(A) In furtherance of the purposes of this Act, the Secretary or a Council may enter into a cooperative agreement with any Federal agency, State or local government, university, non-governmental organization, or other qualified entity to undertake activities to provide for the conservation, restoration, protection, or enhancement of essential fish habitat.

“(B) The Secretary may provide financial assistance to any entity with whom the Secretary or a Council has entered into a cooperative agreement

1 under subparagraph (A) to carry out activities enu-  
2 merated in such agreement.

3 “(C) Such cooperative agreements shall provide  
4 for—

5 “(i) the actions to be taken by the parties  
6 to the agreement;

7 “(ii) the benefits to be derived in connec-  
8 tion with the conservation, protection, restora-  
9 tion or enhancement of essential fish habitat;

10 “(iii) the estimated cost of these actions;  
11 and

12 “(iv) the share of such cost to be borne by  
13 each party to the agreement; except that the  
14 Federal share of such program costs shall not  
15 exceed 75 percent of the estimated program  
16 cost stated in the agreement.

17 “(D) For the purposes of this paragraph, the  
18 non-Federal share may, at the discretion of the Sec-  
19 retary, be in the form of money or in-kind contribu-  
20 tion, the value of which shall be determined by the  
21 Secretary.”.

22 **SEC. 119. ENFORCEMENT.**

23 (a) CIVIL ENFORCEMENT.—Section 308 (16 U.S.C.  
24 1858) is amended—

1           (1) by striking “\$100,000” in subsection (a)  
2           and inserting “\$240,000”;

3           (2) by striking “this section,” in subsection (f)  
4           and inserting “this Act (or any other marine re-  
5           source law enforced by the Secretary),”;

6           (3) by inserting “a permit, or any interest in a  
7           permit,” in subsection (g)(3) after “vessel,” each  
8           place it appears;

9           (4) by striking “the vessel” in subsection (g)(3)  
10          and inserting “the vessel, permit, or interest”;

11          (5) by inserting “or any amount in settlement  
12          of a civil forfeiture,” after “criminal fine,” in sub-  
13          section (g)(4); and

14          (6) by striking “penalty or fine” in subsection  
15          (g)(4) and inserting “penalty, fine, or settlement  
16          amount”.

17          (b) CRIMINAL PENALTIES.—Section 309 (16 U.S.C.  
18          1859) is amended to read as follows:

19          **“SEC. 309. CRIMINAL PENALTIES.**

20                 “(a) FINES AND IMPRISONMENT.—

21                         “(1) IN GENERAL.—Any person (other than a  
22                         foreign government or entity thereof) who knowingly  
23                         violates subparagraph (D), (E), (F), (H), (I), or (L)  
24                         of paragraph (1) of section 307, or paragraph (2) of

1 section 307, shall be imprisoned for not more than  
2 5 years and fined—

3 “(A) not more than \$500,000 if such per-  
4 son is an individual; or

5 “(B) not more than \$1,000,000 if such  
6 person is a corporation or other legal entity  
7 other than an individual.

8 “(2) AGGRAVATED OFFENSES.—Notwith-  
9 standing paragraph (1), the maximum term of im-  
10 prisonment shall be for not more than 10 years if—

11 “(A) the violator is an individual; and

12 “(B) in the commission of a violation de-  
13 scribed in paragraph (1), that individual—

14 “(A) used a dangerous weapon;

15 “(B) engaged in conduct that caused bod-  
16 ily injury to any observer described in section  
17 307, any officer authorized to enforce the provi-  
18 sions of this Act under section 311, or any  
19 Council member or staff; or

20 “(C) placed any such observer, officer,  
21 Council member, or staff in fear of imminent  
22 bodily injury.

23 “(b) OTHER VIOLATIONS.—Any person (other than  
24 a foreign government or entity thereof) who knowingly vio-  
25 lates any other provision of section 307 shall be fined



1 under title 18, United States Code, imprisoned for not  
2 more than 5 years, or both.

3 “(c) JURISDICTION.—

4 “(1) IN GENERAL.—The district courts of the  
5 United States shall have jurisdiction over any action  
6 arising under this Act.

7 “(2) VENUE.—For purposes of this Act—

8 “(A) each violation of this Act shall con-  
9 stitute a separate offense and the offense shall  
10 be deemed to have been committed not only in  
11 the district where it first occurred, but also in  
12 any other district as authorized by law;

13 “(B) any offense not committed within a  
14 judicial district of the United States is subject  
15 to the venue provisions of section 3238 of title  
16 18, United States Code; and

17 “(C) American Samoa shall be included  
18 within the judicial district of the United States  
19 District Court for the District of Hawaii.”.

20 (c) CIVIL FORFEITURES.—Section 310(a) (16 U.S.C.  
21 1860(a)) is amended—

22 (1) by striking “(other than any act for which  
23 the issuance of a citation under section 311(a) is  
24 sufficient sanction)”; and

1           (2) by striking “States.” and inserting “States,  
2           except that no fishing vessel shall be subject to for-  
3           feiture under this section as the result of any act for  
4           which the issuance of a citation under section 311(a)  
5           is sufficient sanction.”.

6           (d)    ENFORCEMENT    RESPONSIBILITY.—Section  
7   311(a) (16 U.S.C. 1861(a)) is amended—

8           (1) by striking “Act” and inserting “Act, and  
9           the provisions of any marine resource law adminis-  
10          tered by the Secretary,”; and

11          (2) by striking “State agency,” and inserting  
12          “agency of any State, Territory, Commonwealth, or  
13          Tribe,”.

14          (e)    POWERS OF AUTHORIZED OFFICERS.—Section  
15   311(b) (16 U.S.C. 1861(b)) is amended by striking “Fed-  
16   eral or State”.

17          (f)    PAYMENT OF STORAGE, CARE, AND OTHER  
18   COSTS.—Section 311(e)(1)(B) (16 U.S.C. 1861(e)(1)(B))  
19   is amended to read as follows:

20               “(B) a reward to any person who furnishes in-  
21               formation which leads to an arrest, conviction, civil  
22               penalty assessment, or forfeiture of property for any  
23               violation of any provision of this Act or any other  
24               marine resource law enforced by the Secretary of up  
25               to the lesser of—

1                   “(i) 20 percent of the penalty or fine col-  
2                   lected; or

3                   “(ii) \$20,000;”.

4   **SEC. 120. FISHERY PERMITTING AND REGISTRATION PRO-**  
5                   **GRAMS.**

6           (a) CONSISTENCY OF PLANS WITH NATIONAL PRO-  
7   GRAM.—Section 303(b)(1) (16 U.S.C. 1853(b)(1)) is  
8   amended by inserting after “(1)” the following: “con-  
9   sistent with the national program established under sec-  
10   tion 401,”.

11          (b) UNIFORM NATIONAL PROGRAMS.—Section 401  
12   (16 U.S.C. 1881) is amended to read as follows:

13   **“SEC. 401. FISHERY PERMITTING AND REGISTRATION.**

14           “(a) COMMERCIAL FISHERIES.—The Secretary shall  
15   establish and implement a uniform national program for  
16   permitting in commercial fisheries. The program shall  
17   standardize the requirements for vessel registration and  
18   permitting required by this Act, the Marine Mammal Pro-  
19   tection Act of 1972 (16 U.S.C. 1361 et seq.), any other  
20   marine resource law implemented by the Secretary, and,  
21   with the permission of a State, any marine resource law  
22   implemented by such State.

23           “(b) DEPOSIT OF FEES.—Any fees collected under  
24   this section shall be deposited into the Limited Access Sys-

1 tem Administration Fund established by section  
2 305(h)(5)(B).”.

3 (c) CLERICAL AMENDMENT.—The table of contents  
4 in the first section is amended by striking the item relating  
5 to section 401 and inserting the following:

“Sec. 401. Fishery permitting and registration.”.

6 **SEC. 121. BYCATCH.**

7 (a) REPORTING METHODOLOGY.—Section  
8 303(a)(11) (16 U.S.C. 1853(a)(11)) is amended by strik-  
9 ing “establish a standardized” and inserting “within one  
10 year after the date of the enactment of the Magnuson-  
11 Stevens Fishery Conservation and Management Amend-  
12 ments Act of 2006, establish and begin implementing a  
13 standardized”.

14 (b) CHARITABLE DONATION OF BYCATCH.—Section  
15 303(b) (16 U.S.C. 1853(b)) is further amended by strik-  
16 ing “and” after the semicolon at the end of paragraph  
17 (13), by striking the period at the end of paragraph (14)  
18 and inserting “; and”, and by adding at the end the fol-  
19 lowing:

20 “(15) allow the retention and donation for char-  
21 itable purposes of all dead bycatch that cannot oth-  
22 erwise be avoided under terms that ensure, through  
23 the use of onboard fishery observers or other means,  
24 that such retention and donation do not allow the  
25 evasion of vessel trip limits, total allowable catch lev-

1       els, or other conservation and management meas-  
 2       ures.”.

## 3   **Subtitle B—Collaborative Strategic** 4       **Planning**

### 5   **SEC. 131. SHORT TITLE.**

6       This subtitle may be cited as the “National Fishing  
 7   Fleet Vision, Implementation, and Management Act”.

### 8   **SEC. 132. DEFINITIONS.**

9       In this subtitle:

10           (1) ATLANTIC HIGHLY MIGRATORY SPECIES.—

11       The term “Atlantic highly migratory species” means  
 12       a species in any highly migratory species fishery that  
 13       is within the geographical area of authority of more  
 14       than one of the following Councils: New England  
 15       Council, Mid-Atlantic Council, South Atlantic Coun-  
 16       cil, Gulf Council, and Caribbean Council.

17           (2) COUNCIL.—The term “Council” means a  
 18       Regional Fishery Management Council established  
 19       under the Magnuson Act.

20           (3) HIGHLY MIGRATORY SPECIES.—The term  
 21       “highly migratory species” has the meaning given  
 22       such term in section 3 of the Magnuson Act (16  
 23       U.S.C. 1802).

24           (4) INSTITUTE.—The term “Institute” means  
 25       the United States Institute for Environmental Con-

1        flict Resolution established pursuant to Public Law  
2        105–156.

3            (5) MAGNUSON ACT.—The term “Magnuson  
4        Act” means the Magnuson-Steven Fishery Conserva-  
5        tion and Management Act (16 U.S.C. 1801 et seq.).

6            (6) NATIONAL TASK FORCE.—The term “Na-  
7        tional Task Force” means the National Task Force  
8        on Sustainable Fleet Capacity established under sec-  
9        tion 134.

10          (7) OVERFISHING AND DEPLETED.—Each of  
11        the terms “overfishing” and “depleted” have the  
12        meaning given such term in section 3 of the Magnu-  
13        son Act (16 U.S.C. 1802).

14          (8) SECRETARY.—The term “Secretary” means  
15        the Secretary of Commerce, acting through the Na-  
16        tional Marine Fisheries Service.

17        **SEC. 133. PROGRAM TO ACHIEVE SUSTAINABLE FISHERIES**  
18                                **THROUGH    COLLABORATIVE    STRATEGIC**  
19                                **PLANNING PROCESSES.**

20          (a) IN GENERAL.—The Secretary, in consultation  
21        with the United States Institute for Environmental Con-  
22        flict Resolution, shall establish and implement a program  
23        to enable Regional Fishery Management Councils to de-  
24        velop broadly supported plans designed to achieve sustain-

1 able fisheries through collaborative strategic planning  
2 processes.

3 (b) GUIDANCE AND ASSISTANCE.—Under the pro-  
4 gram under this section, the Secretary shall provide guid-  
5 ance and assistance to Councils in utilizing—

6 (1) collaborative process assessment, design,  
7 and implementation; and

8 (2) options to address regional differences and  
9 circumstances.

10 **SEC. 134. NATIONAL TASK FORCE ON SUSTAINABLE FISH-**  
11 **ERY CAPACITY.**

12 (a) IN GENERAL.—The Secretary shall establish a  
13 National Task Force on Sustainable Fishery Capacity to  
14 develop—

15 (1) guidance for the development of Sustainable  
16 Fishery Standards for Sustainable Fishery Vision,  
17 Implementation, and Management Plans under sec-  
18 tion 135, including appropriate criteria, standards,  
19 performance measures, and guidelines for such  
20 plans; and

21 (2) criteria to prioritize fisheries for which such  
22 plans will be most useful.

23 (b) MEMBERS.—The National Task Force shall—

24 (1) consist of members appointed by the Sec-  
25 retary;

1           (2) have balanced representation of affected  
2           and concerned stakeholders; and

3           (3) include one member designated by the Sec-  
4           retary to serve as the chairperson of the National  
5           Task Force, who shall be appointed by the Sec-  
6           retary—

7                   (A) in consultation with the Regional Fish-  
8                   ery Management Council Coordinating Com-  
9                   mittee; and

10                   (B) based on recommendations of an inde-  
11                   pendent stakeholder assessment conducted by  
12                   the Institute.

13           (c) FEDERAL ADVISORY COMMITTEE ACT.—

14                   (1) IN GENERAL.—The Federal Advisory Com-  
15                   mittee Act (5 App. U.S.C.) shall not apply to the  
16                   National Task Force.

17                   (2) COMPLIANCE.—Notwithstanding paragraph  
18                   (1), the National Task Force shall be appointed and  
19                   operate in a manner consistent with all provisions of  
20                   the Federal Advisory Committee Act with respect  
21                   to—

22                           (A) the balance of membership of the Na-  
23                           tional Task Force;

24                           (B) provision of public notice regarding ac-  
25                           tivities of the National Task Force;



1 (C) open meetings; and

2 (D) public access to documents created by  
3 the National Task Force.

4 (d) GUIDANCE DEVELOPMENT.—

5 (1) Not later than the end of the 9-month pe-  
6 riod beginning on the date of the enactment of this  
7 Act, the National Task Force shall transmit to the  
8 Secretary guidance for the development of Sustain-  
9 able Fishery Vision, Implementation, and Manage-  
10 ment Plan under section 135.

11 (2) The National Task Force shall develop such  
12 guidance through a multistakeholder, collaborative  
13 process, using independent third party neutral facili-  
14 tation assistance provided through the United States  
15 Institute for Environmental Conflict Resolution.

16 (3) If the National Task Force fails to develop  
17 such guidance in accordance with this section, the  
18 Secretary shall issue Sustainable Fishery Vision, Im-  
19 plementation, and Management Plan guidance with-  
20 in 45 days after the end of the period referred to in  
21 paragraph (1).

22 (4) The Secretary, in coordination with the Na-  
23 tional Task Force, shall periodically review and re-  
24 vise, as appropriate, guidance issued under this sub-  
25 section.

1 **SEC. 135. SUSTAINABLE FISHERY VISION, IMPLEMENTA-**  
2 **TION, AND MANAGEMENT PLANS.**

3 (a) IN GENERAL.—Each Council, and the Secretary  
4 with respect to any Atlantic highly migratory species, may  
5 issue a Sustainable Fishery Vision, Implementation, and  
6 Management Plan for any fishery (or combination of fish-  
7 eries, as appropriate) that is under its jurisdiction.

8 (b) PLAN REQUIREMENTS.—

9 (1) IN GENERAL.—Each plan issued under this  
10 section—

11 (A) shall be issued in accordance with the  
12 guidance issued under section 134(d); and

13 (B) shall create a long-term vision and im-  
14 plementation plan for the sustainable operation  
15 of each fishery to which it applies.

16 (2) CONSIDERATIONS.—In developing such a  
17 plan, the Council (or the Secretary) shall consider—

18 (A) the impact of the plan on affected  
19 communities;

20 (B) effective resource conservation; and

21 (C) economic considerations.

22 (c) TASK FORCES ON SUSTAINABLE FISHERY VI-  
23 SION, IMPLEMENTATION, AND MANAGEMENT.—

24 (1) ESTABLISHMENT.—Each Council, and the  
25 Secretary with respect to any Atlantic highly migra-  
26 tory species—

1           (A) may establish a Task Force on Sus-  
2           tainable Fishery Vision, Implementation, and  
3           Management to develop a Sustainable Fishery  
4           Vision, Implementation, and Management Plan;  
5           and

6           (B) in establishing such task force, shall  
7           specify a timeframe for development of such  
8           plan by the task force.

9           (2) DUTIES.—The task force shall—

10           (A) assess the level of fleet capacity for  
11           each fishery for which it is appointed;

12           (B) identify the consequences of inaction  
13           in reducing overfishing in each such fishery;

14           (C) identify a vision for fleet composition  
15           and participation in each such fishery after it is  
16           rebuilt, taking into account long-term resource  
17           conservation needs and communities;

18           (D) assess and prioritize management  
19           measures to implement the vision;

20           (E) develop a Sustainable Fishery Vision,  
21           Implementation, and Management Plan to  
22           achieve the vision and implement such meas-  
23           ures; and

1 (F) determine the economic, social, and re-  
2 source costs and benefits for the measures in-  
3 cluded in the plan.

4 (3) COMPOSITION.—Members of the task force  
5 shall—

6 (A) include appropriate agency leadership  
7 and staff, and Council members and staff;

8 (B) consist of members who have authority  
9 to act effectively in making decisions, as mem-  
10 bers of the task force, on behalf of the agency  
11 or interests they represent;

12 (C) be selected to ensure balanced inclu-  
13 sion of affected and concerned interests; and

14 (D) as a condition of appointment to the  
15 task force, be required to confirm their willing-  
16 ness to commit to the generally accepted prin-  
17 ciples of engagement in collaborative problem  
18 solving, and to participate in good faith with an  
19 open mind to considering new perspectives.

20 (4) CHAIRPERSON.—The task force shall select  
21 a Chairperson from among its members. The Chair-  
22 person shall guide the work of the task force, work-  
23 ing with an independent facilitator or mediator to  
24 facilitate development of a consensus for a Sustain-

1       able Fishery Vision, Implementation, and Manage-  
2       ment Plan.

3               (5) OPERATIONS.—The task force shall operate  
4       in accordance with the guidance issued under section  
5       134(d).

6               (6) SUPPORT.—

7                       (A) SUPPORT BY SECRETARY.—The Sec-  
8       retary shall support the task force by providing  
9       relevant information requested by the task  
10      force.

11                    (B) EXPERTS AND CONSULTANTS.—The  
12      Chairperson of a task force may procure serv-  
13      ices of independent facilitators and mediators,  
14      and other experts, as the Chairperson considers  
15      advisable to carry out the duties of the task  
16      force.

17               (7) REPORT.—The task force shall submit a re-  
18      port to the Council according to the timeframe speci-  
19      fied by the Council under paragraph (1)(B), includ-  
20      ing a Sustainable Fishery Vision, Implementation,  
21      and Management Plan for the fishery for which the  
22      task force is established.

23               (d) ISSUANCE OF PLAN BY SECRETARY FOR SPECIES  
24      THAT IS NOT AN ATLANTIC HIGHLY MIGRATORY SPE-  
25      CIES.—The Secretary shall issue a Sustainable Fishery Vi-

1 sion, Implementation, and Management Plan under this  
2 section (including establishment of a task force in accord-  
3 ance with subsection (b)) for a fishery for a species that  
4 is not an Atlantic highly migratory species, if—

5           (1) the Council having jurisdiction over the  
6 fishery fails to establish a task force under sub-  
7 section (b) within the 2-year period after the Sec-  
8 retary determines that the fishery is subject to over-  
9 fishing or in a depleted condition; or

10           (2) the Secretary determines that the fishery,  
11 after implementation of a fishery management plan  
12 developed by the Council for a period of 2 years, is  
13 subject to overfishing.

14       (e) REVIEW OF PLANS.—A Council, and the Sec-  
15 retary with respect to any Atlantic highly migratory spe-  
16 cies, shall regularly review each Sustainable Fishery Vi-  
17 sion, Implementation, and Management Plan issued under  
18 this section to determine the effectiveness of the plan and  
19 whether changes are necessary to enhance success of the  
20 goals of the plan.

21 **SEC. 136. PRIORITY IMPLEMENTATION.**

22       In implementing the Magnuson-Stevens Fishery Con-  
23 servation and Management Act, the Secretary shall give  
24 priority to supporting measures designed to implement

1 Fishery Vision, Implementation, and Management Plans  
 2 issued under this subtitle.

3 **SEC. 137. TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING.**

4 Section 201(d) (16 U.S.C. 1821(d)) is amended—

5 (1) by striking “shall be” and inserting “is”;

6 (2) by striking “which will not” and inserting  
 7 “that can not, or will not,”; and

8 (3) by inserting after “Act” the following: “,  
 9 except that the total allowable level shall be zero for  
 10 any fishery that is determined by the Secretary to  
 11 have adequate or excess harvest capacity. Allocations  
 12 of the total allowable level of foreign fishing are dis-  
 13 cretionary.”.

14 **TITLE II—INFORMATION AND**  
 15 **RESEARCH**

16 **SEC. 201. RECREATIONAL FISHERIES INFORMATION.**

17 Section 401 (16 U.S.C. 1881) is amended by striking  
 18 subsection (g) and inserting the following:

19 “(g) RECREATIONAL FISHERIES.—

20 “(1) FEDERAL PROGRAM.—The Secretary shall  
 21 establish and implement a regionally based registry  
 22 program for recreational fishermen in each of the 8  
 23 fishery management regions. The program shall pro-  
 24 vide for—

1           “(A) the registration (including identifica-  
2           tion and contact information) of individuals  
3           who engage in recreational fishing—

4                   “(i) in the Exclusive Economic Zone;

5                   “(ii) for anadromous species; or

6                   “(iii) for Continental Shelf fishery re-  
7           sources beyond the Exclusive Economic  
8           Zone; and

9           “(B) if appropriate, the registration (in-  
10          cluding the ownership, operator, and identifica-  
11          tion of the vessel) of vessels used in such fish-  
12          ing.

13          “(2) STATE PROGRAMS.—The Secretary shall  
14          exempt from registration under the program rec-  
15          reational fishermen and charter fishing vessels li-  
16          censed, permitted, or registered under the laws of a  
17          State if the Secretary determines that information  
18          from the State program is suitable for the Sec-  
19          retary’s use or is used to assist in completing marine  
20          recreational fisheries statistical surveys, or evalu-  
21          ating the effects of proposed conservation and man-  
22          agement measures for marine recreational fisheries.

23          “(3) DATA COLLECTION.—Within 24 months  
24          after the date of enactment of the Magnuson-Ste-  
25          vens Fishery Conservation and Management Amend-



1       ments Act of 2006, the Secretary shall establish a  
2       program to improve the quality and accuracy of in-  
3       formation generated by the Marine Recreational  
4       Fishery Statistics Survey, with a goal of achieving  
5       acceptable accuracy and utility for each individual  
6       fishery. Unless the Secretary determines that alter-  
7       nate methods will achieve this goal more efficiently  
8       and effectively, the program shall, to the extent pos-  
9       sible, include—

10               “(A) an adequate number of dockside  
11               interviews to accurately estimate recreational  
12               catch and effort;

13               “(B) use of surveys that target anglers  
14               registered or licensed at the State or Federal  
15               level to collect participation and effort data;

16               “(C) collection and analysis of vessel trip  
17               report data from charter fishing vessels; and

18               “(D) development of a weather corrective  
19               factor that can be applied to recreational catch  
20               and effort estimates.

21               “(4) REPORT.—Within 24 months after estab-  
22       lishment of the program, the Secretary shall submit  
23       a report to Congress that describes the progress  
24       made toward achieving the goals and objectives of  
25       the program.”.

1 **SEC. 202. COLLECTION OF INFORMATION.**

2 Section 402(a) (16 U.S.C. 1881a(a)) is amended—

3 (1) by striking “(a) COUNCIL REQUESTS.—” in  
4 the subsection heading and inserting “(a) COLLEC-  
5 TION PROGRAMS.—”;

6 (2) by resetting the text following “(a) COLLEC-  
7 TION PROGRAMS.—” as a new paragraph 2 ems  
8 from the left margin;

9 (3) by inserting “(1) COUNCIL REQUESTS.—”  
10 before “If a Council”;

11 (4) by striking “subsection” in the last sentence  
12 and inserting “paragraph”;

13 (5) by striking “(other than information that  
14 would disclose proprietary or confidential commercial  
15 or financial information regarding fishing operations  
16 or fish processing operations)” each place it appears;  
17 and

18 (6) by adding at the end the following:

19 “(2) SECRETARIAL INITIATION.—If the Sec-  
20 retary determines that additional information is nec-  
21 essary for developing, implementing, revising, or  
22 monitoring a fishery management plan, or for deter-  
23 mining whether a fishery is in need of management,  
24 the Secretary may, by regulation, implement an in-  
25 formation collection or observer program requiring

1 submission of such additional information for the  
2 fishery.”.

3 **SEC. 203. ACCESS TO CERTAIN INFORMATION.**

4 (a) IN GENERAL.—Section 402(b) (16 U.S.C.  
5 1881a(b)) is amended—

6 (1) by redesignating paragraph (2) as para-  
7 graph (3) and resetting it 2 ems from the left mar-  
8 gin;

9 (2) by striking all preceding paragraph (3), as  
10 redesignated, and inserting the following:

11 “(b) CONFIDENTIALITY OF INFORMATION.—

12 “(1) Any information submitted to the Sec-  
13 retary, a state fishery management agency, or a ma-  
14 rine fisheries commission by any person in compli-  
15 ance with the requirements of this Act that contains  
16 confidential information shall be confidential and  
17 shall be exempt from disclosure under section  
18 552(h)(3) of title 5, United States Code, except—

19 “(A) to Federal employees and Council em-  
20 ployees who are responsible for fishery manage-  
21 ment plan development, monitoring, or enforce-  
22 ment;

23 “(B) to State or Marine Fisheries Commis-  
24 sion employees as necessary to further the De-  
25 partment’s mission, subject to a confidentiality

1 agreement that prohibits public disclosure of  
2 confidential information relating to any person;

3 “(C) to State employees who are respon-  
4 sible for fishery management plan enforcement,  
5 if the States employing those employees have  
6 entered into a fishery enforcement agreement  
7 with the Secretary and the agreement is in ef-  
8 fect;

9 “(D) when such information is used by  
10 State, Council, or Marine Fisheries Commission  
11 employees to verify catch under a limited access  
12 program, but only to the extent that such use  
13 is consistent with subparagraph (B);

14 “(E) when the Secretary has obtained  
15 written authorization from the person submit-  
16 ting such information to release such informa-  
17 tion to persons for reasons not otherwise pro-  
18 vided for in this subsection, and such release  
19 does not violate other requirements of this Act;

20 “(F) when such information is required to  
21 be submitted to the Secretary for any deter-  
22 mination under a limited access program; or

23 “(G) in support of homeland and national  
24 security activities, including the Coast Guard’s  
25 homeland security missions as defined in sec-

1           tion 888(a)(2) of the Homeland Security Act of  
2           2002 (6 U.S.C. 468(a)(2)).

3           “(2) Any observer information shall be con-  
4           fidential and shall not be disclosed, except in accord-  
5           ance with the requirements of subparagraphs (A)  
6           through (G) of paragraph (1), or—

7                   “(A) as authorized by a fishery manage-  
8                   ment plan or regulations under the authority of  
9                   the North Pacific Council to allow disclosure to  
10                  the public of weekly summary bycatch informa-  
11                  tion identified by vessel or for haul-specific by-  
12                  catch information without vessel identification;

13                  “(B) when such information is necessary  
14                  in proceedings to adjudicate observer certifi-  
15                  cations; or

16                  “(C) as authorized by any regulations  
17                  issued under paragraph (3) allowing the collec-  
18                  tion of observer information, pursuant to a con-  
19                  fidentiality agreement between the observers,  
20                  observer employers, and the Secretary prohib-  
21                  iting disclosure of the information by the ob-  
22                  servers or observer employers, in order—

23                       “(i) to allow the sharing of observer  
24                       information among observers and between  
25                       observers and observer employers as nec-

1           essary to train and prepare observers for  
2           deployments on specific vessels; or  
3           “(ii) to validate the accuracy of the  
4           observer information collected.”; and  
5           (3) by striking “(1)(E).” in paragraph (3), as  
6           redesignated, and inserting “(2)(A).”.

7           (b) CONFORMING AMENDMENT.—Section 404(c)(4)  
8           (16 U.S.C. 1881c(c)(4)) is amended by striking “under  
9           section 401”.

10   **SEC. 204. COOPERATIVE RESEARCH AND MANAGEMENT**  
11           **PROGRAM.**

12           Title III (16 U.S.C. 1851 et seq.), as amended by  
13           section 115, is further amended by adding at the end the  
14           following:

15   **“SEC. 317. COOPERATIVE RESEARCH AND MANAGEMENT**  
16           **PROGRAM.**

17           “(a) IN GENERAL.—The Secretary of Commerce, in  
18           consultation with the Councils, shall establish a coopera-  
19           tive research and management program to address needs  
20           identified under this Act and under any other marine re-  
21           source laws enforced by the Secretary. The program shall  
22           be implemented on a regional basis and shall be developed  
23           and conducted through partnerships among Federal,  
24           State, and Tribal managers and scientists (including inter-

1 state fishery commissions), commercial and recreational  
2 fishing industry participants, and educational institutions.

3 “(b) ELIGIBLE PROJECTS.—The Secretary shall  
4 make funds available under the program for the support  
5 of projects to address critical needs identified by the Coun-  
6 cils in consultation with the Secretary. The program shall  
7 promote and encourage efforts to utilize sources of data  
8 maintained by other Federal agencies, State agencies, or  
9 academia for use in such projects.

10 “(c) FUNDING.—In making funds available the Sec-  
11 retary shall award funding on a competitive basis and  
12 based on regional fishery management needs, select pro-  
13 grams that form part of a coherent program of research  
14 focused on solving priority issues identified by the Coun-  
15 cils, and shall give priority to the following projects:

16 “(1) Projects to collect data to improve, supple-  
17 ment, or enhance stock assessments, including the  
18 use of fishing vessels or acoustic or other marine  
19 technology.

20 “(2) Projects to assess the amount and type of  
21 bycatch, or seabird bycatch, or post-release mortality  
22 occurring in a fishery.

23 “(3) Conservation engineering projects designed  
24 to reduce bycatch, or seabird bycatch, including  
25 avoidance of post-release mortality, reduction of by-

1 catch in high seas fisheries, and transfer of such  
2 fishing technologies to other nations.

3 “(4) Projects for the identification of habitat  
4 areas of particular concern and for habitat conserva-  
5 tion.

6 “(5) Projects designed to collect and compile  
7 economic and social data.

8 “(d) EXPERIMENTAL PERMITTING PROCESS.—Not  
9 later than 180 days after the date of enactment of the  
10 Magnuson-Stevens Fishery Conservation and Manage-  
11 ment Amendments Act of 2006, the Secretary, in con-  
12 sultation with the Councils, shall promulgate regulations  
13 that create an expedited, uniform, and regionally-based  
14 process to promote issuance, where practicable, of experi-  
15 mental fishing permits.

16 “(e) GUIDELINES.—The Secretary, in consultation  
17 with the Councils, shall establish guidelines to ensure that  
18 participation in a research project funded under this sec-  
19 tion does not result in loss of a participant’s catch history  
20 or unexpended days-at-sea as part of a limited entry sys-  
21 tem.

22 “(f) EXEMPTED PROJECTS.—The procedures of this  
23 section shall not apply to research funded by quota set-  
24 asides in a fishery.”.



1 **SEC. 205. RESTORATION STUDY.**

2 Title III (16 U.S.C. 1851 et seq.), as amended by  
3 section 205, is further amended by adding at the end the  
4 following:

5 **“SEC. 319. RESTORATION STUDY.**

6 “(a) IN GENERAL.—The Secretary may conduct a  
7 study to update scientific information and protocols need-  
8 ed to improve restoration techniques for a variety of coast  
9 habitat types and synthesize the results in a format easily  
10 understandable by restoration practitioners and local com-  
11 munities.

12 “(b) AUTHORIZATION OF APPROPRIATIONS.—There  
13 is authorized to be appropriated \$500,000 for fiscal year  
14 2007 to conduct this study.”.

15 **SEC. 206. FISHERIES CONSERVATION AND MANAGEMENT**  
16 **FUND.**

17 (a) IN GENERAL.—The Secretary shall establish and  
18 maintain a fund, to be known as the “Fisheries Conserva-  
19 tion and Management Fund”, which shall consist of  
20 amounts retained and deposited into the Fund under sub-  
21 section (c).

22 (b) PURPOSES.—Subject to the allocation of funds  
23 described in subsection (d), amounts in the Fund shall be  
24 available to the Secretary of Commerce, without appro-  
25 priation or fiscal year limitation, to disburse as described  
26 in subsection (e) for—

1           (1) efforts to improve fishery harvest data col-  
2       lection including—

3                   (A) expanding the use of electronic catch  
4       reporting programs and technology; and

5                   (B) improvement of monitoring and ob-  
6       server coverage through the expanded use of  
7       electronic monitoring devices and satellite track-  
8       ing systems such as VMS on small vessels;

9           (2) cooperative fishery research and analysis, in  
10      collaboration with fishery participants, academic in-  
11      stitutions, community residents, and other interested  
12      parties;

13          (3) development of methods or new technologies  
14      to improve the quality, health safety, and value of  
15      fish landed;

16          (4) conducting analysis of fish and seafood for  
17      health benefits and risks, including levels of con-  
18      taminants and, where feasible, the source of such  
19      contaminants;

20          (5) marketing of sustainable United States fish-  
21      ery products, including consumer education regard-  
22      ing the health or other benefits of wild fishery prod-  
23      ucts harvested by vessels of the United States; and

24          (6) providing financial assistance to fishermen  
25      to offset the costs of modifying fishing practices and

1 gear to meet the requirements of this Act, the Mag-  
2 nuson-Stevens Fishery Conservation and Manage-  
3 ment Act (16 U.S.C. 1801 et seq.), and other Fed-  
4 eral laws in pari materia.

5 (c) DEPOSITS TO THE FUND.—

6 (1) QUOTA SET-ASIDES.—Any amount gen-  
7 erated through quota set-asides established by a  
8 Council under the Magnuson-Stevens Fishery Con-  
9 servation and Management Act (16 U.S.C. 1801 et  
10 seq.) and designated by the Council for inclusion in  
11 the Fishery Conservation and Management Fund,  
12 may be deposited in the Fund.

13 (2) OTHER FUNDS.—In addition to amounts re-  
14 ceived under sections 311(e)(1)(G) of the Magnuson-  
15 Stevens Fishery Conservation and Management Act  
16 (16 U.S.C. 1861(e)(1)(G), and amounts received  
17 pursuant to paragraph (1) of this subsection, the  
18 Fishery Conservation and Management Fund may  
19 also receive funds from—

20 (A) appropriations for the purposes of this  
21 section; and

22 (B) States or other public sources or pri-  
23 vate or non-profit organizations for purposes of  
24 this section.

1 (d) REGIONAL ALLOCATION.—The Secretary shall,  
 2 every 2 years, apportion monies from the Fund among the  
 3 eight Council regions according to consensus recommenda-  
 4 tions of the Councils, based on regional priorities identi-  
 5 fied through the Council process, except that no region  
 6 shall receive less than 5 percent of the Fund in each allo-  
 7 cation period.

8 (e) LIMITATION ON THE USE OF THE FUND.—No  
 9 amount made available from the Fund may be used to de-  
 10 fray the costs of carrying out other requirements of this  
 11 Act or the Magnuson-Stevens Fishery Conservation and  
 12 Management Act (16 U.S.C. 1801 et seq.).

13 **SEC. 207. USE OF FISHERY FINANCE PROGRAM AND CAP-**  
 14 **ITAL CONSTRUCTION FUND FOR SUSTAIN-**  
 15 **ABLE PURPOSES.**

16 (a) PURPOSE OF OBLIGATIONS.—Section  
 17 1104A(a)(7) of the Merchant Marine Act, 1936 (46  
 18 U.S.C. App. 1274(a)(7)) is amended to read as follows:

19 “(7) financing or refinancing including,  
 20 “(A) the reimbursement of obligors for ex-  
 21 penditures previously made, for the purchase of  
 22 individual fishing quotas in accordance with  
 23 section 303(d)(4) of the Magnuson-Stevens  
 24 Fishery Conservation and Management Act;

1 “(B) activities that assist in the transition  
2 to reduced fishing capacity; or

3 “(C) technologies or upgrades designed to  
4 improve collection and reporting of fishery-de-  
5 pendent data, to reduce bycatch and seabird by-  
6 catch, to improve selectivity or reduce adverse  
7 impacts of fishing gear, or to improve safety.”.

8 (b) EXPANSION OF PURPOSES FOR QUALIFIED  
9 WITHDRAWALS.—Section 607(f)(1) of the Merchant Ma-  
10 rine Act, 1936 (46 U.S.C. App. 1177(f)(1)) is amended—

11 (1) by striking “for:” and inserting “for—”;

12 (B) by striking “vessel,” in subparagraph (A)  
13 and inserting “vessel;”;

14 (C) by striking “vessel, or” in subparagraph  
15 (B) and inserting “vessel;”;

16 (D) by striking “vessel.” in subparagraph (C)  
17 and inserting “vessel;”;

18 (E) by inserting after subparagraph (C) the fol-  
19 lowing:

20 “(D) in the case of any person for whose  
21 benefit the fund was established and who par-  
22 ticipates in the fishing capacity reduction pro-  
23 gram under section 312 of the Magnuson-Ste-  
24 vens Fishery Conservation and Management  
25 Act (16 U.S.C. 1861a)—

1 “(i) if such person remains in the  
2 fishery, the satisfaction of any debt obliga-  
3 tion undertaken pursuant to such program;  
4 and

5 “(ii) if such person withdraws 1 or  
6 more vessels from the fishery, the substi-  
7 tution of amounts the person would other-  
8 wise receive under such program for such  
9 person’s vessel or permit to engage in the  
10 fishery;

11 “(E) the repair, maintenance, or upgrade  
12 of an eligible vessel or its equipment for the  
13 purpose of—

14 “(i) making conservation engineering  
15 changes to reduce bycatch, improve selec-  
16 tivity of fishing gear, or reduce adverse im-  
17 pacts of fishing gear;

18 “(ii) improving vessel safety; or

19 “(iii) acquiring, installing, or upgrad-  
20 ing equipment to improve collection, re-  
21 porting, or accuracy of fishery data; or

22 “(F) the acquisition, construction, recon-  
23 struction, upgrading, or investment in shoreside  
24 fishery-related facilities or infrastructure in the  
25 United States for the purpose of promoting

1 United States ownership of fishery-related fa-  
2 cilities in the United States without contrib-  
3 uting to overcapacity in the sector.”.

4 **SEC. 208. DEEP SEA CORAL RESEARCH AND TECHNOLOGY**  
5 **PROGRAM.**

6 Title IV (16 U.S.C. 1881 et seq.) is amended by add-  
7 ing at the end the following:

8 **“SEC. 408. DEEP SEA CORAL RESEARCH AND TECHNOLOGY**  
9 **PROGRAM.**

10 “(a) IN GENERAL.—The Secretary, in consultation  
11 with appropriate regional fishery management councils  
12 and in coordination with other Federal agencies and edu-  
13 cational institutions, shall establish a program—

14 “(1) to identify existing research on, and known  
15 locations of, deep sea corals and submit such infor-  
16 mation to the appropriate Councils;

17 “(2) to locate and map locations of deep sea  
18 corals and submit such information to the Councils;

19 “(3) to monitor activity in locations where deep  
20 sea corals are known or likely to occur, based on  
21 best scientific information available, including  
22 through underwater or remote sensing technologies  
23 and submit such information to the appropriate  
24 Councils;

1           “(4) to conduct research, including cooperative  
2       research with fishing industry participants, on deep  
3       sea corals and related species, and on survey meth-  
4       ods;

5           “(5) to develop technologies or methods de-  
6       signed to assist fishing industry participants in re-  
7       ducing interactions between fishing gear and deep  
8       sea corals; and

9           “(6) to prioritize program activities in areas  
10      where deep sea corals are known to occur, and in  
11      areas where scientific modeling or other methods  
12      predict deep sea corals are likely to be present.

13       “(b) REPORTING.—Beginning 1 year after the date  
14   of enactment of the Magnuson-Stevens Fishery Conserva-  
15   tion and Management Amendments Act of 2006, the Sec-  
16   retary, in consultation with the Councils, shall submit bi-  
17   ennial reports to Congress and the public on steps taken  
18   by the Secretary to identify and monitor, and the Councils  
19   to protect, deep sea coral areas, including summaries of  
20   the results of mapping, research, and data collection per-  
21   formed under the program.”.

22   **SEC. 209. IMPACT OF TURTLE EXCLUDER DEVICES ON**  
23                   **SHRIMPING.**

24       (a) IN GENERAL.—The Under Secretary of Com-  
25   merce for Oceans and Atmosphere shall execute an agree-



1 ment with the National Academy of Sciences to conduct,  
2 jointly, a multi-year, comprehensive in-water study de-  
3 signed—

4 (1) to measure accurately the efforts and ef-  
5 fects of shrimp fishery efforts to utilize turtle ex-  
6 cluder devices;

7 (2) to analyze the impact of those efforts on sea  
8 turtle mortality, including interaction between tur-  
9 tles and shrimp trawlers in the inshore, nearshore,  
10 and offshore waters of the Gulf of Mexico and simi-  
11 lar geographical locations in the waters of the  
12 Southeastern United States; and

13 (3) to evaluate innovative technologies to in-  
14 crease shrimp retention in turtle excluder devices  
15 while ensuring the protection of endangered and  
16 threatened sea turtles.

17 (b) OBSERVERS.—In conducting the study, the  
18 Under Secretary shall ensure that observers are placed on-  
19 board commercial shrimp fishing vessels where appro-  
20 priate or necessary.

21 (c) INTERIM REPORTS.—During the course of the  
22 study and until a final report is submitted to the Senate  
23 Committee on Commerce, Science, and Transportation  
24 and the House of Representatives Committee on Re-  
25 sources, the National Academy of Sciences shall transmit

1 interim reports to the Committees biannually containing  
2 a summary of preliminary findings and conclusions from  
3 the study.

4 **SEC. 210. HURRICANE EFFECTS ON SHRIMP AND OYSTER**  
5 **FISHERIES AND HABITATS.**

6 (a) FISHERIES REPORT.—Within 180 days after the  
7 date of enactment of this Act, the Secretary of Commerce  
8 shall transmit a report to the Senate Committee on Com-  
9 merce, Science, and Transportation and the House of Rep-  
10 resentatives Committee on Resources on the impact of  
11 Hurricane Katrina, Hurricane Rita, and Hurricane Wilma  
12 on—

13 (1) commercial and recreational fisheries in the  
14 States of Alabama, Louisiana, Florida, Mississippi,  
15 and Texas, including the extent of recovery of such  
16 fisheries from such impacts;

17 (2) shrimp fishing vessels in those States; and

18 (3) the oyster industry in those States.

19 (b) HABITAT REPORT.—Within 180 days after the  
20 date of enactment of this Act, the Secretary of Commerce  
21 shall transmit a report to the Senate Committee on Com-  
22 merce, Science, and Transportation and the House of Rep-  
23 resentatives Committee on Resources on the impact of  
24 Hurricane Katrina, Hurricane Rita, and Hurricane Wilma

1 on habitat, including the habitat of shrimp and oysters  
 2 in those States.

3 (c) HABITAT RESTORATION.—The Secretary shall  
 4 carry out activities to restore fishery habitats, including  
 5 the shrimp and oyster habitats in Louisiana and Mis-  
 6 sissippi.

## 7 **TITLE III—OTHER FISHERIES** 8 **STATUTES**

### 9 **SEC. 301. REAUTHORIZATION OF OTHER FISHERIES ACTS.**

10 (a) ATLANTIC STRIPED BASS CONSERVATION ACT.—  
 11 Section 7(a) of the Atlantic Striped Bass Conservation Act  
 12 (16 U.S.C. 5156(a)) is amended to read as follows:

13 “(a) AUTHORIZATION.—For each of fiscal years  
 14 2007, 2008, 2009, and 2010, there are authorized to be  
 15 appropriated to carry out this Act—

16 “(1) \$1,000,000 to the Secretary of Commerce;  
 17 and

18 “(2) \$250,000 to the Secretary of the Inte-  
 19 rior.”.

20 (b) YUKON RIVER SALMON ACT OF 2000.—Section  
 21 208 of the Yukon River Salmon Act of 2000 (16 U.S.C.  
 22 5727) is amended by striking “\$4,000,000 for each of fis-  
 23 cal years 2004 through 2008,” and inserting “\$4,000,000  
 24 for each of fiscal years 2007 through 2010,”.

1 (c) SHARK FINNING PROHIBITION ACT.—Section 10  
 2 of the Shark Finning Prohibition Act (16 U.S.C. 1822  
 3 note) is amended by striking “fiscal years 2001 through  
 4 2005” and inserting “fiscal years 2007 through 2010”.

5 (d) PACIFIC SALMON TREATY ACT.—

6 (1) TRANSFER OF SECTION TO ACT.—The text  
 7 of section 623 of title VI of H.R. 3421 (113 Stat.  
 8 1501A–56), as introduced on November 17, 1999,  
 9 and enacted into law by section 1000(a)(1) of the  
 10 Act of November 29, 1999 (Public Law 106–113)—

11 (A) is transferred to the Pacific Salmon  
 12 Treaty Act (16 U.S.C. 3631 et seq.) and in-  
 13 serted after section 15; and

14 (B) amended—

15 (i) by striking “SEC. 623.”; and

16 (ii) inserting before “(a) NORTHERN  
 17 FUND AND SOUTHERN FUND.—” the fol-  
 18 lowing:

19 **“SEC. 16. NORTHERN AND SOUTHERN FUNDS; TREATY IM-**  
 20 **PLEMENTATION; ADDITIONAL AUTHORIZA-**  
 21 **TION OF APPROPRIATIONS.”.**

22 (2) TECHNICAL CORRECTION.—The amendment  
 23 made by the Department of Commerce and Related  
 24 Agencies Appropriations Act, 2005 under the head-  
 25 ing “PACIFIC COASTAL SALMON RECOVERY” (118

1 Stat. 2881), to section 628(2)(A) of the Depart-  
 2 ments of Commerce, Justice, and State, the Judici-  
 3 ary, and Related Agencies Appropriations Act, 2001  
 4 is deemed to have been made to section  
 5 623(d)(2)(A) of title VI of H.R. 3421 (113 Stat.  
 6 1501A–56), as introduced on November 17, 1999,  
 7 enacted into law by section 1000(a)(1) of the Act of  
 8 November 29, 1999 (Public Law 106–113) instead  
 9 of to such section 628(2)(A), as of the date of enact-  
 10 ment of the Department of Commerce and Related  
 11 Agencies Appropriations Act, 2005.

12 (3) REAUTHORIZATION.—Section 16(d)(2)(A)  
 13 of the Pacific Salmon Treaty Act, as transferred by  
 14 subsection (a), is amended—

15 (A) by inserting “sustainable salmon fish-  
 16 eries,” after “enhancement,”; and

17 (B) by inserting “2007, 2008, and 2009,”  
 18 after “2005,”.

19 (e) STATE AUTHORITY FOR DUNGENESS CRAB FISH-  
 20 ERY MANAGEMENT.—Section 203 of Public Law 105–384  
 21 (16 U.S.C. 1856 note) is amended—

22 (1) by striking “September 30, 2006.” in sub-  
 23 section (i) and inserting “September 30, 2016.”;

24 (2) by striking “health” in subsection (j) and  
 25 inserting “status”; and

1           (3) by striking “California.” in subsection (j)  
2           and inserting “California, including—  
3           “(1) stock status and trends throughout its  
4           range;  
5           “(2) a description of applicable research and  
6           scientific review processes used to determine stock  
7           status and trends; and  
8           “(3) measures implemented or planned that are  
9           designed to prevent or end overfishing in the fish-  
10          ery.”.

## 11       **TITLE IV—INTERNATIONAL**

### 12   **SEC. 401. FINDING WITH RESPECT TO ILLEGAL, UNRE-** 13           **PORTED, AND UNREGULATED FISHING.**

14       Section 2(a) (16 U.S.C. 1801(a)), as amended by sec-  
15   tion 3 of this Act, is further amended by adding at the  
16   end the following:

17           “(12) International cooperation is necessary to  
18       address illegal, unreported, and unregulated fishing  
19       and other fishing practices which may harm the sus-  
20       tainability of living marine resources and disadvan-  
21       tage the United States fishing industry.”.

1 **SEC. 402. ACTION TO END ILLEGAL, UNREPORTED, OR UN-**  
2 **REGULATED FISHING AND REDUCE BYCATCH**  
3 **OF PROTECTED MARINE SPECIES.**

4 (a) IN GENERAL.—Title VI of the High Seas Driftnet  
5 Fishing Moratorium Protection Act (16 U.S.C. 1826d et  
6 seq.), is amended by adding at the end the following:

7 **“SEC. 607. BIENNIAL REPORT ON INTERNATIONAL COMPLI-**  
8 **ANCE.**

9 “The Secretary, in consultation with the Secretary of  
10 State, shall provide to Congress, by not later than 2 years  
11 after the date of enactment of the Magnuson-Stevens  
12 Fishery Conservation and Management Amendments Act  
13 of 2006, and every 2 years thereafter, a report that in-  
14 cludes—

15 “(1) the state of knowledge on the status of  
16 international living marine resources, including a list  
17 of all fish stocks classified as depleted, endangered,  
18 or threatened with extinction by any international or  
19 other authority charged with management or con-  
20 servation of living marine resources;

21 “(2) a list of nations whose vessels have been  
22 identified under sections 609(a) or 610(a), including  
23 the specific offending activities and any subsequent  
24 actions taken pursuant to section 609 or 610;

25 “(3) a description of efforts taken by nations on  
26 those lists to comply with the provisions of sections

1       609 and 610, and an evaluation of the progress of  
2       those efforts, including steps taken by the United  
3       States to implement those sections and to improve  
4       international compliance;

5           “(4) progress at the international level, pursu-  
6       ant to section 608, to strengthen the efforts of inter-  
7       national fishery management organizations to end il-  
8       legal, unreported, or unregulated fishing; and

9           “(5) a plan of action for ensuring the conclu-  
10      sion and entry into force of international measures  
11      comparable to those of the United States to reduce  
12      impacts of fishing and other practices on protected  
13      living marine resources, if no international agree-  
14      ment to achieve such goal exists, or if the relevant  
15      international fishery or conservation organization  
16      has failed to implement effective measures to end or  
17      reduce the adverse impacts of fishing practices on  
18      such species.

19   **“SEC. 608. ACTION TO STRENGTHEN INTERNATIONAL FISH-**  
20           **ERY MANAGEMENT ORGANIZATIONS.**

21       “The Secretary, in consultation with the Secretary of  
22      State, and in cooperation with relevant fishery manage-  
23      ment councils, shall take actions to improve the effective-  
24      ness of international fishery management organizations in



1 conserving and managing fish stocks under their jurisdic-  
2 tion. These actions shall include—

3 “(1) urging international fishery management  
4 organizations to which the United States is a mem-  
5 ber—

6 “(A) to incorporate multilateral sanctions  
7 against member or nonmember governments  
8 whose vessels engage in illegal, unreported, or  
9 unregulated fishing;

10 “(B) to seek adoption of lists that identify  
11 fishing vessels engaged in illegal, unreported, or  
12 unregulated fishing, including authorized  
13 (green) and unauthorized (red) vessel lists, that  
14 can be shared among all members and other  
15 international fishery management organizations;

16 “(C) to seek international adoption of a  
17 centralized vessel monitoring system with an  
18 independent secretariat in order to monitor and  
19 document capacity in fleets of all nations in-  
20 volved in fishing in areas under the an inter-  
21 national fishery management organization’s ju-  
22 risdiction;

23 “(D) to increase use of observers and tech-  
24 nologies needed to monitor compliance with con-  
25 servation and management measures estab-

1           lished by the organization, including vessel  
2           monitoring systems and automatic identification  
3           systems; and

4                 “(E) to seek adoption of greater port state  
5           controls in all nations, particularly those na-  
6           tions whose vessels engage in illegal, unre-  
7           ported, or unregulated fishing;

8                 “(2) urging international fishery management  
9           organizations to which the United States is a mem-  
10          ber, as well as all members of those organizations,  
11          to adopt and expand the use of market-related meas-  
12          ures to combat illegal, unreported, or unregulated  
13          fishing, including—

14                 “(A) import prohibitions, landing restric-  
15          tions, or other market-based measures needed  
16          to enforce compliance with international fishery  
17          management organization measures, such as  
18          quotas and catch limits;

19                 “(B) import restrictions or other market-  
20          based measures to prevent the trade or impor-  
21          tation of fish caught by vessels identified multi-  
22          laterally as engaging in illegal, unreported, or  
23          unregulated fishing; and

24                 “(C) catch documentation and certification  
25          schemes to improve tracking and identification

1 of catch of vessels engaged in illegal, unre-  
2 ported, or unregulated fishing, including ad-  
3 vance transmission of catch documents to ports  
4 of entry; and

5 “(3) urging other nations at bilateral, regional,  
6 and international levels, including the Convention on  
7 International Trade in Endangered Species of  
8 Fauna and Flora and the World Trade Organization  
9 to take all steps necessary, consistent with inter-  
10 national law, to adopt measures and policies that  
11 will prevent fish or other living marine resources  
12 harvested by vessels engaged in illegal, unreported,  
13 or unregulated fishing from being traded or im-  
14 ported into their nation or territories.

15 **“SEC. 609. ILLEGAL, UNREPORTED, OR UNREGULATED**  
16 **FISHING.**

17 “(a) IDENTIFICATION.—The Secretary shall identify,  
18 and list in the report under section 607, a nation if—

19 “(1) fishing vessels of that nation are engaged,  
20 or have been engaged during the preceding calendar  
21 year in illegal, unreported, or unregulated fishing;  
22 and

23 “(2) the relevant international fishery manage-  
24 ment organization has failed to implement effective  
25 measures to end the illegal unreported, or unregu-

1       lated fishing activity by vessels of that nation or the  
2       nation is not a party to, or does not maintain co-  
3       operating status with, such organization, or where  
4       no international fishery management organization  
5       exists.

6       “(b) NOTIFICATION.—An identification under sub-  
7       section (a) or section 610(a) is deemed to be an identifica-  
8       tion under section 101(b)(1)(A) of the High Seas Driftnet  
9       Fisheries Enforcement Act (16 U.S.C. 1826a(b)(1)(A)),  
10      and the Secretary shall notify the President and that na-  
11      tion of such identification.

12      “(c) CONSULTATION.—No later than 60 days after  
13      submitting a report to Congress under section 607, the  
14      Secretary, in consultation with the Secretary of State,  
15      shall—

16              “(1) notify nations listed in the report of the  
17      requirements of this section;

18              “(2) initiate consultations for the purpose of  
19      encouraging such nations to take the appropriate  
20      corrective action with respect to the offending activi-  
21      ties of their fishing vessels identified in the report;  
22      and

23              “(3) notify any relevant international fishery  
24      management organization of the actions taken by  
25      the United States under this section.

1 “(d) IUU CERTIFICATION PROCEDURE.—

2 “(1) CERTIFICATION.—The Secretary shall es-  
3 tablish a procedure, consistent with the provisions of  
4 subchapter II of chapter 5 of title 5, United States  
5 Code, and including notice and an opportunity for  
6 comment by the governments of any nation listed by  
7 the Secretary under subsection (a), for determining  
8 if that government has taken appropriate corrective  
9 action with respect to the offending activities of its  
10 fishing vessels identified in the report under section  
11 607. The Secretary shall determine, on the basis of  
12 the procedure, and certify to the Congress no later  
13 than 90 days after the date on which the Secretary  
14 promulgates a final rule containing the procedure,  
15 and biennially thereafter in the report under section  
16 607—

17 “(A) whether the government of each na-  
18 tion identified under subsection (b) has pro-  
19 vided documentary evidence that it has taken  
20 corrective action with respect to the offending  
21 activities of its fishing vessels identified in the  
22 report; or

23 “(B) whether the relevant international  
24 fishery management organization has imple-  
25 mented measures that are effective in ending

1           the illegal, unreported, or unregulated fishing  
2           activity by vessels of that nation.

3           “(2) ALTERNATIVE PROCEDURE.—The Sec-  
4           retary may establish a procedure for certification, on  
5           a shipment-by-shipment, shipper-by-shipper, or other  
6           basis of fish or fish products from a vessel of a har-  
7           vesting nation not certified under paragraph (1) if  
8           the Secretary determines that—

9                   “(A) the vessel has not engaged in illegal,  
10                  unreported, or unregulated fishing under an  
11                  international fishery management agreement to  
12                  which the United States is a party; or

13                   “(B) the vessel is not identified by an  
14                  international fishery management organization  
15                  as participating in illegal, unreported, or un-  
16                  regulated fishing activities.

17           “(3) EFFECT OF CERTIFICATION.—The provi-  
18           sions of section 101(a) and section 101(b)(3) and  
19           (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and  
20           (b)(4)) shall apply to any nation identified under  
21           subsection (a) that has not been certified by the Sec-  
22           retary under this subsection, or for which the Sec-  
23           retary has issued a negative certification under this  
24           subsection, but shall not apply to any nation identi-  
25           fied under subsection (a) for which the Secretary

1       has issued a positive certification under this sub-  
2       section.

3       “(e) ILLEGAL, UNREPORTED, OR UNREGULATED  
4 FISHING DEFINED.—

5               “(1) IN GENERAL.—In this Act the term ‘ille-  
6 gal, unreported, or unregulated fishing’ has the  
7 meaning established under paragraph (2).

8               “(2) SECRETARY TO DEFINE TERM WITHIN  
9 LEGISLATIVE GUIDELINES.—Within 3 months after  
10 the date of enactment of the Magnuson-Stevens  
11 Fishery Conservation and Management Amendments  
12 Act of 2006, the Secretary shall publish a definition  
13 of the term ‘illegal, unreported, or unregulated fish-  
14 ing’ for purposes of this Act.

15               “(3) GUIDELINES.—The Secretary shall include  
16 in the definition, at a minimum—

17                       “(A) fishing activities that violate con-  
18 servation and management measures required  
19 under an international fishery management  
20 agreement to which the United States is a  
21 party, including catch limits or quotas, capacity  
22 restrictions, and bycatch reduction require-  
23 ments;

24                       “(B) overfishing of fish stocks shared by  
25 the United States, for which there are no appli-

1 cable international conservation or management  
2 measures or in areas with no applicable inter-  
3 national fishery management organization or  
4 agreement, that has adverse impacts on such  
5 stocks; and

6 “(C) fishing activity, including bottom  
7 trawling, that have adverse impacts on  
8 seamounts, hydrothermal vents, and cold water  
9 corals located beyond national jurisdiction, for  
10 which there are no applicable conservation or  
11 management measures or in areas with no ap-  
12 plicable international fishery management orga-  
13 nization or agreement.

14 “(f) AUTHORIZATION OF APPROPRIATIONS.—There  
15 are authorized to be appropriated to the Secretary for fis-  
16 cal years 2007 through 2012 such sums as are necessary  
17 to carry out this section.

18 **“SEC. 610. EQUIVALENT CONSERVATION MEASURES.**

19 “(a) IDENTIFICATION.—The Secretary shall identify,  
20 and list in the report under section 607, a nation if—

21 “(1) fishing vessels of that nation are engaged,  
22 or have been engaged during the preceding calendar  
23 year in fishing activities or practices beyond the ex-  
24 clusive economic zone that result in bycatch of a  
25 protected living marine resource;



1           “(2) the relevant international organization for  
2           the conservation and protection of such species or  
3           the relevant international or regional fishery organi-  
4           zation has failed to implement effective measures to  
5           end or reduce the impacts of the fishing practices of  
6           the nation’s vessels on such species, or the nation is  
7           not a party to, or does not maintain cooperating sta-  
8           tus with, such organization; and

9           “(3) the nation has not adopted a regulatory  
10          program governing such fishing practices and associ-  
11          ated bycatch of protected living marine resources  
12          that are comparable to those of the United States,  
13          taking into account different conditions.

14          “(b) CONSULTATION AND NEGOTIATION.—The Sec-  
15          retary, acting through the Secretary of State, shall—

16               “(1) notify, as soon as possible, other nations  
17               whose vessels engage in fishing activities or practices  
18               described in subsection (a), about the requirements  
19               of this section and this Act;

20               “(2) initiate discussions as soon as possible  
21               with all foreign governments which are engaged in,  
22               or which have persons or companies engaged in,  
23               fishing activities or practices described in subsection  
24               (a), for the purpose of entering into bilateral and

1       multilateral treaties with such countries to protect  
2       such species;

3           “(3) seek agreements calling for international  
4       restrictions on fishing activities or practices de-  
5       scribed in subsection (a) through the United Na-  
6       tions, the Food and Agriculture Organization’s Com-  
7       mittee on Fisheries, and appropriate international  
8       fishery management bodies; and

9           “(4) initiate the amendment of any existing  
10      international treaty for the protection and conserva-  
11      tion of such species to which the United States is a  
12      party in order to make such treaty consistent with  
13      the purposes and policies of this section.

14      “(c) CONSERVATION CERTIFICATION PROCEDURE.—

15           “(1) CERTIFICATION.—The Secretary shall de-  
16      termine, on the basis of a procedure consistent with  
17      the provisions of subchapter II of chapter 5 of title  
18      5, United States Code, and including notice and an  
19      opportunity for comment by the governments of any  
20      nation identified by the Secretary under subsection  
21      (a). The Secretary shall certify to the Congress by  
22      January 31, 2007, and annually thereafter whether  
23      the government of each harvesting nation—

24           “(A) has provided documentary evidence of  
25      the adoption of a regulatory program governing

1 the conservation of the protected living marine  
2 resource, including measures to ensure max-  
3 imum probability for survival after release, that  
4 is comparable to that of the United States, tak-  
5 ing into account different conditions, and  
6 which, in the case of pelagic longline fishing, in-  
7 cludes mandatory use of circle hooks, careful  
8 handling and release equipment, and training  
9 and observer programs; and

10 “(B) has established a management plan  
11 containing requirements that will assist in gath-  
12 ering species-specific data to support inter-  
13 national stock assessments and conservation en-  
14 forcement efforts for protected living marine re-  
15 sources.

16 “(2) ALTERNATIVE PROCEDURE.—The Sec-  
17 retary shall establish a procedure for certification,  
18 on a shipment-by-shipment, shipper-by-shipper, or  
19 other basis of fish or fish products from a vessel of  
20 a harvesting nation not certified under paragraph  
21 (1) if the Secretary determines that such imports  
22 were harvested by practices that do not result in by-  
23 catch of a protected marine species, or were har-  
24 vested by practices that—

1           “(A) are comparable to those of the United  
2           States, taking into account different conditions,  
3           and which, in the case of pelagic longline fish-  
4           ing, includes mandatory use of circle hooks,  
5           careful handling and release equipment, and  
6           training and observer programs; and

7           “(B) include the gathering of species spe-  
8           cific data that can be used to support inter-  
9           national and regional stock assessments and  
10          conservation efforts for protected living marine  
11          resources.

12          “(3) EFFECT OF CERTIFICATION.—The provi-  
13          sions of section 101(a) and section 101(b)(3) and  
14          (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and  
15          (b)(4)) shall apply to any nation identified under  
16          subsection (a) that has not been certified by the Sec-  
17          retary under this subsection, or for which the Sec-  
18          retary has issued a negative certification under this  
19          subsection, but shall not apply to any nation identi-  
20          fied under subsection (a) for which the Secretary  
21          has issued a positive certification under this sub-  
22          section.

23          “(d) INTERNATIONAL COOPERATION AND ASSIST-  
24          ANCE.—To the greatest extent possible consistent with ex-

1 isting authority and the availability of funds, the Secretary  
2 shall—

3 “(1) provide appropriate assistance to nations  
4 identified by the Secretary under subsection (a) and  
5 international organizations of which those nations  
6 are members to assist those nations in qualifying for  
7 certification under subsection (c);

8 “(2) undertake, where appropriate, cooperative  
9 research activities on species statistics and improved  
10 harvesting techniques, with those nations or organi-  
11 zations;

12 “(3) encourage and facilitate the transfer of ap-  
13 propriate technology to those nations or organiza-  
14 tions to assist those nations in qualifying for certifi-  
15 cation under subsection (c); and

16 “(4) provide assistance to those nations or or-  
17 ganizations in designing and implementing appro-  
18 priate fish harvesting plans.

19 “(e) PROTECTED LIVING MARINE RESOURCE DE-  
20 FINED.—In this section the term ‘protected living marine  
21 resource’—

22 “(1) means non-target fish, sea turtles, or ma-  
23 rine mammals occurring in areas beyond United  
24 States jurisdiction that are protected under United  
25 States law or international agreement, including the

1 Marine Mammal Protection Act of 1972, the Endan-  
2 gered Species Act of 1973, the Shark Finning Prohi-  
3 bition Act, and the Convention on International  
4 Trade in Endangered Species of Wild Flora and  
5 Fauna; but

6 “(2) does not include species, except sharks,  
7 managed under the Magnuson-Stevens Fishery Con-  
8 servation and Management Act, the Atlantic Tunas  
9 Convention Act of 1973, or any international fishery  
10 management agreement.

11 “(f) AUTHORIZATION OF APPROPRIATIONS.—There  
12 are authorized to be appropriated to the Secretary for fis-  
13 cal years 2007 through 2012 such sums as are necessary  
14 to carry out this section.

15 “(b) CONFORMING AMENDMENTS.—

16 “(1) DENIAL OF PORT PRIVILEGES.—Section  
17 101(b) of the High Seas Driftnet Fisheries Enforce-  
18 ment Act (16 U.S.C. 1826a(b)) is amended by in-  
19 serting “or illegal, unreported, or unregulated  
20 fishing“ after “fishing“ in paragraph (1)(A)(i),  
21 paragraph (1)(B), paragraph (2), and paragraph  
22 (4)(A)(i).

23 “(2) DURATION OF DENIAL.—Section 102 of  
24 the High Seas Driftnet Fisheries Enforcement Act  
25 (16 U.S.C. 1826b) is amended by inserting ‘or ille-

1 gal, unreported, or unregulated fishing’ after ‘fish-  
2 ing’.”

3 **SEC. 403. REBUILDING DEPLETED FISHERIES.**

4 (a) REBUILDING DEPLETED FISHERIES.—Section  
5 304(e) (16 U.S.C. 1854(e)) is amended by adding at the  
6 end thereof the following:

7 “(8) The provisions of this paragraph shall  
8 apply in lieu of paragraphs (2) through (7) of this  
9 subsection to a fishery that the Secretary determines  
10 is depleted or approaching a condition of being de-  
11pleted due to excessive international fishing pres-  
12sure, and for which there are no management meas-  
13ures to end overfishing under an international agree-  
14ment to which the United States is a party. For  
15such fisheries—

16 “(A) the Secretary, in cooperation with the  
17 Secretary of State, immediately take appro-  
18priate action at the international level to end  
19the overfishing; and

20 “(B) within 1 year after the Secretary’s  
21determination, the appropriate Council, or Sec-  
22retary, for fisheries under section 302(a)(3)  
23shall—

24 “(i) develop recommendations for do-  
25mestic regulations to address the relative

1 impact of fishing vessels of the United  
2 States on the stock and, if developed by a  
3 Council, the Council shall submit such rec-  
4 ommendations to the Secretary; and

5 “(ii) develop and submit recommenda-  
6 tions to the Secretary of State, and to the  
7 Congress, for international actions that  
8 will end overfishing in the fishery and re-  
9 build the affected stocks, taking into ac-  
10 count the relative impact of vessels of  
11 other nations and vessels of the United  
12 States on the relevant stock.”.

13 (b) HIGHLY MIGRATORY SPECIES TAGGING RE-  
14 SEARCH.—Section 304(g)(2) (16 U.S.C. 1854(g)(2)) is  
15 amended by striking “(16 U.S.C. 971d)” and inserting  
16 “(16 U.S.C. 971d), or highly migratory species harvested  
17 in a commercial fishery managed by a Council under this  
18 Act or the Western and Central Pacific Fisheries Conven-  
19 tion Implementation Act,”.

○